

94TH CONGRESS
1ST SESSION

S. 953

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1975

Mr. STEVENSON introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. (a) Section 3 (5) (A) of the Export Ad-
4 ministration Act of 1969, as amended (the "Act"), is fur-
5 ther amended by inserting immediately after "against" the
6 following: "United States concerns and".

7 (b) Section 3 (5) (B) of the Act is further amended
8 by inserting immediately after "against" the following:
9 "United States concerns and".

1 SEC. 2. Section 4 (b) (1) of the Act is further amended
2 by striking out the next to the last sentence thereof and
3 inserting in lieu thereof the following: "Such rules and regu-
4 lations shall implement the provisions of section 3 (5) of
5 this Act, and require that any domestic concern which re-
6 ceives any request for information, for participation in agree-
7 ments, or for the taking of any other action as specified in
8 that section report the same to the Secretary of Commerce,
9 together with any other information which the Secretary
10 may require regarding such request and intended compliance
11 therewith, for such action as the President may deem appro-
12 priate to carry out the policy of that section, including the
13 curtailment by any United States concern of exports to, in-
14 vestments in, or any other economic transactions with coun-
15 tries which impose boycotts or engage in restrictive trade
16 practices as specified in that section."

A BILL

To amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

By Mr. STEVENSON

MARCH 5, 1975

Read twice and referred to the Committee on
Banking, Housing and Urban Affairs

94TH CONGRESS
1ST SESSION

S. 953

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 1975

Referred to the Committee on Banking, Housing and Urban Affairs and
ordered to be printed

AMENDMENT

Intended to be proposed by Mr. CHURCH to S. 953, a bill to amend the Export Administration Act of 1969, to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts, viz: On page 2, line 17, insert the following:

- 1 SEC. 3. Section 4 (b) (1) of the Act is further amended
- 2 by inserting after section 2 the following: "The Secretary of
- 3 Commerce shall make publicly available the names of all do-
- 4 mestic concerns which report the information required in this
- 5 section to implement the provisions of section 3 (5) of this
- 6 Act unless the President determines that the disclosure of the
- 7 name of any individual concern would prove detrimental to
- 8 the national security of the United States. The President shall
- 9 report such determination and the reasons thereof to the Con-

- 1 gress, making available all names of reporting firms upon
 2 request by the appropriate congressional committee.”.

Amdt. No. 1148

94TH CONGRESS
 1ST SESSION

S. 953

AMENDMENT

Intended to be proposed by Mr. Church to S. 953, a bill to amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

NOVEMBER 18, 1975

Referred to the Committee on Banking, Housing and Urban Affairs and ordered to be printed

S. 953

[Report No. 94-632]

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1975

Mr. STEVENSON (for himself, Mr. RIBICOFF, Mr. MCGOVERN, Mr. PACKWOOD, Mr. PROXMIRE, Mr. CHILES, Mr. CHURCH, Mr. STONE, and Mr. MONDALE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

FEBRUARY 6, 1976

Reported by Mr. STEVENSON, with an amendment to the text and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 ~~SECTION 1. (a) Section 3(5)(A) of the Export Ad-~~
4 ~~ministration Act of 1969, as amended (the "Act"), is fur-~~
5 ~~ther amended by inserting immediately after "against" the~~
6 ~~following: "United States concerns and".~~

7 ~~(b) Section 3(5)(B) of the Act is further amended~~
8 ~~by inserting immediately after "against" the following:~~
9 ~~"United States concerns and".~~

1 ~~SEC. 2.~~ Section 4(b)-(1) of the Act is further amended
2 by striking out the next to the last sentence thereof and
3 inserting in lieu thereof the following: "Such rules and regu-
4 lations shall implement the provisions of section 3(5) of
5 this Act and require that any domestic concern which re-
6 ceives any request for information, for participation in agree-
7 ments, or for the taking of any other action as specified in
8 that section report the same to the Secretary of Commerce,
9 together with any other information which the Secretary
10 may require regarding such request and intended compliance
11 therewith, for such action as the President may deem appro-
12 priate to carry out the policy of that section, including the
13 curtailment by any United States Concern of exports to, in-
14 vestments in, or any other economic transactions with coun-
15 tries which impose boycotts or engage in restrictive trade
16 practices as specified in that section."

17 *TITLE I—FOREIGN BOYCOTTS*

18 *SEC. 101. This title may be cited as the "Foreign Boy-*
19 *cotts Act of 1975".*

20 *SEC. 102. (a) Section 3(5)(A) of the Export Admin-*
21 *istration Act of 1969 (hereinafter in this title referred to as*
22 *the "Act") is amended by inserting immediately after*
23 *"United States" the following: "or against any domestic*
24 *concern".*

1 (b) Section 3(5)(B) of the Act is amended by insert-
2 ing immediately after “United States” the following: “or
3 against any domestic concern”.

4 SEC. 103. (a) Section 4(b)(1) of the Act is amended
5 by striking out the next to the last sentence.

6 (b) Section 4(b) of the Act is amended by redesignat-
7 ing paragraphs (2) through (4) and any cross references
8 thereto as paragraphs (3) through (5), respectively, and
9 inserting after paragraph (1) a new paragraph (2) as
10 follows:

11 “(2)(A) Pursuant to such rules and regulations as he
12 may deem necessary and appropriate, the Secretary of Com-
13 merce shall implement the provisions of section 3(5) of this
14 Act.

15 “(B) Such rules and regulations shall require that any
16 domestic concern which receives a request for the furnish-
17 ing of information, the signing of agreements, or the taking
18 of any other action referred to in section 3(5) of this Act
19 shall report that fact to the Secretary of Commerce together
20 with such other information concerning such request as the
21 Secretary may require for such action as he may deem ap-
22 propriate for carrying out the purposes of that section.
23 Such concern shall also report to the Secretary of Commerce
24 whether it intends to comply and whether it has complied

1 with such request. Any report filed pursuant to this subpara-
2 graph after enactment of the Foreign Boycotts Act of 1975
3 shall be made available promptly for public inspection and
4 copying: Provided, however, That information regarding the
5 quantity, description, and value of any goods to which such
6 report relates may be kept confidential if the Secretary de-
7 termines that disclosure thereof would place the domestic
8 concern involved at a competitive disadvantage. The Sec-
9 retary of Commerce shall report the results of such reports
10 to the Secretary of State on a periodic basis for such action
11 as the Secretary of State, in consultation with the Secretary
12 of Commerce, may deem appropriate for carrying out the
13 purposes of section 3(5) of the Act.

14 “(C) Rules and regulations implementing such provi-
15 sions shall also prohibit each domestic concern from (i)
16 furnishing information regarding the race, religion, or na-
17 tional origin of that concern’s or of any other domestic con-
18 cern’s, directors, officers, employees, or shareholders to or
19 for the use by any foreign country, national, or agent thereof
20 where such information is sought for the purpose of en-
21 forcing or implementing restrictive trade practices or boy-
22 cotts against a country friendly to the United States or
23 against any domestic concern, or (ii) refusing to do business
24 with any other domestic concern or person pursuant to an
25 agreement with, requirement of, or a request from, or on

1 *behalf of, any foreign country, national, or agent thereof*
2 *made or imposed for the purpose of enforcing or implement-*
3 *ing restrictive trade practices or boycotts against a country*
4 *friendly to the United States or against any domestic con-*
5 *cern. Any civil penalty (including any suspension or rev-*
6 *ocation of the authority to export) imposed under this*
7 *Act for a violation of rules or regulations issued under*
8 *clause (ii) of the preceding sentence may be imposed only*
9 *after notice and opportunity for an agency hearing on the*
10 *record in accordance with sections 554 through 557 of title*
11 *5, United States Code.”.*

12 *SEC. 104. (a) Section 6(c) of the Act is amended—*

13 *(1) by striking out “The head” and inserting in*
14 *lieu thereof “Except as otherwise provided in the second*
15 *sentence of this subsection, the head”; and*

16 *(2) by adding at the end thereof the following:*
17 *“The head of any department or agency exercising any*
18 *functions under this Act, or any officer or employee of*
19 *such department or agency specifically designated by the*
20 *head thereof, may impose a civil penalty not to exceed*
21 *\$10,000 for each violation of section 4(b)(2) of this*
22 *Act or of any rule or regulation issued thereunder, either*
23 *in addition to or in lieu of any other liability or penalty*
24 *which may be imposed under this Act. The head of*
25 *any department or agency exercising any function under*

1 *this Act relating to licensing, or any officer or employee*
2 *of such department or agency specifically designated by*
3 *the head thereof, may use the authority under this Act*
4 *to suspend or revoke the authority of a person to export*
5 *articles, materials, supplies, or information from the*
6 *United States for each violation of section 4(b)(2) of*
7 *this Act. Any charging letter or other document initi-*
8 *ating proceedings by the Secretary of Commerce after*
9 *enactment of the Foreign Boycotts Act of 1975 for the*
10 *imposition of sanctions for violations of section 4(b)(2)*
11 *of this Act shall be made available for public inspection*
12 *and copying.”.*

13 *(b) Section 7(c) of the Act is amended by striking the*
14 *word “No” at the beginning thereof and inserting in lieu*
15 *thereof the following: “Except as otherwise provided by*
16 *this Act, no”.*

17 *SEC. 105. Section 10(b) of the Act is amended by add-*
18 *ing at the end thereof a new paragraph (3) as follows:*

19 *“(3) Each such report shall also contain a description*
20 *of actions taken by the President and the Secretary of Com-*
21 *merce to effect the policy of section 3(5) of this Act.”.*

22 *SEC. 106. Section 11 of the Act is amended by adding at*
23 *the end thereof the following: “The term ‘domestic con-*
24 *cern’ as used in this Act shall include but not be limited*

1 to banks, other financial institutions, insurers, freight for-
2 warders, and shipping companies organized under the laws
3 of the United States or any State or any political subdivision
4 thereof.”.

5 TITLE II—DISCLOSURE

6 SEC. 201. This title may be cited as the “Domestic and
7 Foreign Investment Improved Disclosure Act of 1975”.

8 SEC. 202. Section 13(d)(1) of the Securities Exchange
9 Act of 1934 (15 U.S.C. 78m) is amended to read as
10 follows:

11 “(d)(1) Any person who, after acquiring directly or
12 indirectly the beneficial ownership of any equity security of
13 a class which is registered pursuant to section 12 of this
14 title, or any equity security of an insurance company which
15 would have been required to be so registered except for the
16 exemption contained in section 12(g)(2)(G) of this title,
17 or any equity security issued by a closed-end investment
18 company registered under the Investment Company Act of
19 1940, is directly or indirectly the beneficial owner of more
20 than 5 per centum of such class shall, within ten days after
21 such acquisition, send to the issuer of the security at its prin-
22 cipal executive office, by registered or certified mail, send to
23 each exchange where the security is traded, and file with the
24 Commission, a statement containing such of the following in-

1 *formation, and such additional information, as the Commis-*
2 *sion, by rule, may prescribe as necessary or appropriate in*
3 *the public interest or for the protection of investors—*

4 “(A) *the background, identity, residence, and na-*
5 *tionality of, and the nature of such beneficial ownership*
6 *by, such person and all other persons by whom or on*
7 *whose behalf the purchases have been or are to be*
8 *effected;*

9 “(B) *the source and amount of the funds or other*
10 *consideration used or to be used in making the purchases,*
11 *and if any part of the purchase price or proposed pur-*
12 *chase price is represented or is to be represented by funds*
13 *or other consideration borrowed or otherwise obtained*
14 *for the purpose of acquiring, holding, or trading such*
15 *security, a description of the transaction and the names of*
16 *the parties thereto, except that where a source of funds is*
17 *a loan made in the ordinary course of business by a bank,*
18 *as defined in section 3(a)(6) of this title, if the person*
19 *filing such statement so requests, the name of the bank*
20 *shall not be made available to the public;*

21 “(C) *if the purpose of the purchases or prospective*
22 *purchases is to acquire control of the business of the*
23 *issuer of the securities, any plans or proposals which such*
24 *persons may have to liquidate such issuer, to sell its*
25 *assets to or merge it with any other persons, or to make*

1 *any other major change in its business or corporate*
2 *structure;*

3 *“(D) the number of shares of such security which*
4 *are beneficially owned, and the number of shares con-*
5 *cerning which there is a right to acquire, directly or*
6 *indirectly, by (i) such person, and (ii) by each asso-*
7 *ciate of such person, giving the background, identity,*
8 *residence, and nationality of each such associate; and*

9 *“(E) information as to any contracts, arrange-*
10 *ments, or understandings with any person with respect*
11 *to any securities of the issuer, including but not limited*
12 *to transfer of any of the securities, joint ventures, loan*
13 *or option arrangements, puts or calls, guaranties of loans,*
14 *guaranties against loss or guaranties of profits, division*
15 *of losses or profits, or the giving or withholding of*
16 *proxies, naming the persons with whom such contracts,*
17 *arrangements, or understandings have been entered into,*
18 *and giving the details thereof.”.*

19 *SEC. 203. Section 13 of the Securities Exchange Act*
20 *of 1934, as amended (15 U.S.C. 78m), is amended by*
21 *adding at the end thereof the following new subsection:*

22 *“(g)(1) Every holder of record of, and any other*
23 *person having an interest in, 2 per centum or more of any*
24 *security of a class described in subsection (d)(1) of this*

1 section shall report such interest and such other informa-
2 tion, in such form and at such intervals (but in no event
3 more frequently than quarterly), as the Commission may,
4 by rule, prescribe.

5 “(2) Any person required to make reports pursuant
6 to paragraph (1) of this subsection shall file, publish, or
7 disseminate such reports in such manner and to such persons,
8 including the Commission, as the Commission may, by rule,
9 specify. Any issuer which receives reports pursuant to this
10 paragraph shall include in any filing or registration state-
11 ment it makes with the Commission, under the Federal
12 securities laws as defined in section 21(g) of this title,
13 such of the information contained in such reports as the
14 Commission may, by rule, require.

15 “(3) The 2 per centum figure in subsection (g)(1)
16 of this section shall be reduced to 1 per centum on
17 September 1, 1976, and to one-half of 1 per centum on
18 September 1, 1977: Provided, however, That the Commis-
19 sion may shorten or extend such periods if the Commission
20 first finds that such reduction or extension is not inconsistent
21 with the protection of investors or the public interest, after
22 giving appropriate consideration to, and receiving public
23 comments, views, and data on, the following matters:

24 “(A) the incidence of avoidance of reporting by
25 beneficial owners using multiple holders of record;

1 “(B) the cost of compliance to issuers and to record
2 holders;

3 “(C) the effect on the securities markets of such
4 action, including the system for the clearance and settle-
5 ment of securities transactions;

6 “(D) the benefits to investors and to the public;

7 “(E) and bona fide interests of an individual in the
8 privacy of his financial affairs;

9 “(F) the extent to which such reported information
10 gives or would give any person an undue advantage in
11 connection with activities subject to sections 13(d) and
12 14(d) of this title;

13 “(G) the need for such information in connection
14 with the administration and enforcement of this title; and

15 “(H) such other matters as the Commission may
16 deem relevant, including the results of any study or
17 investigation it may undertake pursuant to this title and
18 the information obtained pursuant to section 13(f) of
19 this title.

20 The Commission shall report to the Congress on August
21 1, 1976, and again on August 1, 1977, the steps it has
22 taken, or plans to take, to implement, accelerate, or defer
23 the time periods set forth in this paragraph. In addition, the
24 Commission shall no later than January 2, 1978, report to
25 the Congress on the feasibility and desirability of reducing

1 the per centum figure in paragraph (3) to one-tenth of 1
2 per centum, after studying the impact of such reduction on
3 a reasonable sample of issuers, recordholders, and other per-
4 sons required to report under this subsection and after full
5 consideration of the matters referred to in clauses (A)
6 through (H).

7 “(4) The Commission shall have the authority, by
8 rule or by order, to exempt from the requirements of this
9 subsection any security, issuer, or person, or any class of
10 securities, issuers, or persons, if it finds that such exemption
11 is not inconsistent with the public interest or the protection of
12 investors.

13 “(5) It shall be unlawful for any person, in contraven-
14 tion of such rules as the Commission may prescribe, to make
15 use of the mails or any other means or instrumentality of
16 interstate commerce to effect any transaction (for his own
17 account or the account of another) in any security of a class
18 described in subsection (d)(1) of this section, if such per-
19 son knew, or should have known, that information required
20 to be filed, published, or disseminated in accordance with
21 this subsection, either by the person effecting the transaction
22 or by the person on whose behalf, directly or indirectly, the
23 transaction is intended to be effected, has not been filed,
24 published, or disseminated.

1 (6) *In exercising its authority under this subsection,*
2 *the Commission shall take such steps as are within its power,*
3 *including consulting with the Comptroller General of the*
4 *United States, the Director of the Office of Management and*
5 *Budget, the appropriate regulatory agencies referred to in*
6 *section 34(D) of this title, and other Federal authorities*
7 *which, directly or indirectly, require reports substantially*
8 *similar to that called for by this subsection (A) to achieve*
9 *uniform, centralized reporting of such information and (B)*
10 *consistently with the objectives set forth in this subsection,*
11 *to avoid unnecessarily duplicative reporting by and minimize*
12 *the compliance burden on persons required to report.”.*

Amend the title so as to read: “A bill to amend the Export Administration Act of 1969 to strengthen the anti-boycott provisions of such Act, to amend the Securities Exchange Act of 1934 to enhance investor disclosure provisions of that Act, and for other purposes.”.

Calendar No. 605

94TH CONGRESS
2D Session

S. 953

[Report No. 94-632]

A BILL

To amend the Export Administration Act of 1969 to clarify and strengthen the authority of the Secretary of Commerce to take action in the case of restrictive trade practices or boycotts.

By Mr. STEVENSON, Mr. RIBICOFF, Mr. McGOVERN, Mr. PACKWOOD, Mr. PROxmIRE, Mr. CHILES, Mr. CHURCH, Mr. STONE, and Mr. MONDALE

MARCH 5, 1975

Read twice and referred to the Committee on Banking, Housing and Urban Affairs

FEBRUARY 6, 1976

Reported with an amendment to the text and an amendment to the title

S. 1303

IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, MARCH 12), 1975

Mr. INOUE (for himself, Mr. ALLEN, Mr. BAYH, Mr. HUDDLESTON, Mr. METCALF, Mr. PEARSON, and Mr. STONE) introduced the following bill; which was read twice and, by unanimous consent, referred to the Committee on Commerce and, if and when reported, then to the Committee on Banking, Housing and Urban Affairs

A BILL

To regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Foreign Investment
4 Disclosure Act of 1975".

5 DECLARATION OF POLICY

6 SEC. 2. (a) The Congress finds and declares that—
7 (1) Foreign investment in the United States has
8 increased in recent years.

1 (2) Such investment could significantly affect the
2 economy of the United States.

3 (3) Large monetary reserves and capital accumula-
4 tions exist in many oil exporting nations and other for-
5 eign countries and these reserves and accumulations may
6 be invested in this Nation.

7 (4) The potential consequences of foreign invest-
8 ment, particularly on a massive scale, cannot be calcu-
9 lated because the Federal Government lacks sufficient
10 information on foreign investment and its actual or pos-
11 sible effect on the national security, commerce, employ-
12 ment, inflation, and the general welfare.

13 (5) Federal agencies responsible for the collection
14 of data on foreign investment do not maintain adequate
15 programs for the gathering and analysis of sufficient de-
16 tailed data and information on such foreign investment
17 and planned investment and lack sufficient authority to
18 collect information sufficient to enable the Congress to
19 formulate and enact a reasoned and comprehensive pol-
20 icy with respect to such investment.

21 (b) It is therefore the purpose of the Congress in this
22 Act to—

23 (1) require foreign investors and their agents to
24 make public disclosure of their identities and the identi-
25 ties of their principals;

1 (2) discover and disclose the nature and scope of all
2 significant foreign investment in the United States; and

3 (3) direct the Secretary of Commerce to analyze
4 such investments and planned investments and make
5 recommendations with respect to foreign investment
6 policy.

7 (c) Nothing in this Act is intended to restrain or deter
8 foreign investment in the United States or to discriminate
9 against any particular foreign investors.

10 DEFINITIONS

11 SEC. 3. As used in this Act, the term—

12 (1) “Administration” means the Foreign Invest-
13 ment Administration, established by this Act;

14 (2) “foreign investment” means the ownership or
15 control, by ownership of stock or other securities, by con-
16 tractual commitments or otherwise, by any foreign in-
17 vestor, of all or part of a United States company or prop-
18 erty which is located wholly or substantially in the
19 United States;

20 (3) “foreign investor” means—

21 (A) a foreign government, agency, or instru-
22 mentality thereof;

23 (B) an international agency or organization, as
24 defined by the Secretary;

1 (C) a natural person who is not a citizen of the
2 United States;

3 (D) a company other than a United States
4 company;

5 (E) any person who, directly or indirectly, is
6 owned or controlled by or acting as agent or trustee,
7 for one or more such government, agencies, orga-
8 nizations, or persons; or

9 (F) two or more persons acting in concert for
10 the purpose of acquiring, holding, voting, or dispos-
11 ing of securities or for the purpose of acquiring, hold-
12 ing, or disposing of property, at least one of whom
13 is a person described in any of the preceding sub-
14 paragraphs of this paragraph;

15 (4) "person" includes any government or agency
16 or instrumentality thereof;

17 (5) "property" means any real or personal prop-
18 erty and any other thing of value, including the right
19 to acquire or control any real or personal property;

20 (6) "Secretary" means the Secretary of Com-
21 merce, or his delegate;

22 (7) "United States company" means any corpo-
23 ration, syndicate, partnership or other business unit
24 organized in one of the United States, the Canal Zone,

1 the District of Columbia, Guam, Puerto Rico, the Vir-
2 gin Islands, or any other possession of the United States.

3 FOREIGN INVESTMENT ADMINISTRATION

4 SEC. 4. (a) There is established in the Department of
5 Commerce an agency to be known as the Foreign Invest-
6 ment Administration. The Secretary shall carry out the
7 provisions of this Act through the Foreign Investment Ad-
8 ministration and shall supervise the Director of such Ad-
9 ministration.

10 (b) The agency shall be administered and supervised
11 by a Director, who shall be appointed by the President, by
12 and with the advice and consent of the Senate. The Director
13 shall receive compensation at the rate now and hereafter
14 prescribed for offices and positions at level V of the Execu-
15 tive Schedule (5 U.S.C. 5316).

16 (c) The Director shall appoint a Deputy Director who
17 shall serve as Acting Director during any period of absence
18 or incapacity of the Director and who shall carry out any
19 duties delegated or assigned to him by the Director. The
20 Deputy Director shall receive compensation at a rate now
21 and hereafter prescribed for offices and positions at level of
22 GS-18 on the General Schedule (5 U.S.C. 5332).

23 (d) The Director may procure the temporary or inter-
24 mittent services of experts and consultants in accordance
25 with the provisions of section 3109 of title 5, United States

1 Code. Persons so employed shall receive compensation at a
2 rate to be fixed by the agency, but not in excess of the maxi-
3 mum amount payable under such section. While away from
4 his home or regular place of business and engaged in the
5 performance of services for the Administration, any such per-
6 son may be allowed travel expenses, including per diem in
7 lieu of subsistence, as authorized by section 5703 (b) of title
8 5, United States Code, for persons in the Government serv-
9 ices employed intermittently.

10 (e) The Secretary is authorized, after investigation, to
11 transfer the whole or part of the functions of any office sub-
12 ject to his jurisdiction to the Administration, upon the prepa-
13 ration of a reorganization plan for the making of the reorga-
14 nization as to which he has made findings and which he in-
15 cludes in the plan, and upon the submission of such plan to
16 Congress together with a declaration that such reorganiza-
17 tion is necessary or appropriate to further the purpose of this
18 Act: *Provided*, That such reorganization plan shall not be-
19 come effective if either House of Congress within sixty days
20 after the date of transmittal passes a resolution stating in sub-
21 stance that such House does not favor the reorganization
22 plan.

23 ADMINISTRATIVE POWERS

24 SEC. 5. The Administration is authorized—

25 (1) to issue such rules and regulations, in accord-

1 ance with section 553 of title 5, United States Code, as
2 it deems necessary and appropriate to carry out the pro-
3 visions of this Act;

4 (2) to the extent necessary or appropriate to the
5 policy of this Act, to acquire and maintain property
6 (real, personal, or mixed, tangible, or intangible, or any
7 interest herein) by purchase, lease, condemnation, or in
8 any other lawful manner to sell, lease, or otherwise dis-
9 pose of such property in any manner; and to construct,
10 operate, lease, and maintain buildings, facilities, or other
11 improvements on such property;

12 (3) to accept gifts or donations or services, money,
13 or property in any form;

14 (4) to enter into contracts or other arrangements
15 or modifications thereof, with any person, any depart-
16 ment or agency of the United States, and any State gov-
17 ernment or political subdivision thereof;

18 (5) to make advance, progress, or other payments
19 which the Director deems necessary or appropriate to
20 further the policy of this Act;

21 (6) to hold such hearings and to conduct investiga-
22 tions at such times and places as the Director determines
23 to be appropriate;

24 (7) to propose, in the discretion of the Director,
25 additional programs in furtherance of the policy of this

1 Act to the Committee on Commerce of the Senate and
2 the Committee on Interstate and Foreign Commerce of
3 the House of Representatives without prior submission,
4 review, or clearance of any other agency or officer of
5 the United States; and

6 (8) to take such other action as may be necessary
7 to carry out the provisions of this Act.

8 FOREIGN INVESTMENT DISCLOSURE

9 SEC. 6. (a) The Secretary may require any person sub-
10 ject to the jurisdiction of the United States to maintain a full
11 and accurate record of any information (including journals
12 or other books of original entry, minute books, stock transfer
13 records, list of shareholders, or financial statements) germane
14 to the purpose of this Act, and to furnish under oath, in the
15 form of a report or otherwise, such information as the Secre-
16 tary may determine may be necessary to enable him to carry
17 out his responsibilities under this Act. The information which
18 may be required shall not be limited to holdings or transac-
19 tion but shall include any information necessary to the Sec-
20 retary's functions under this Act in the possession of such
21 person, from whatever source derived, concerning foreign
22 direct investment and foreign portfolio investment by any
23 person whatsoever.

24 (b) (1) The Secretary shall, by regulation, order, or
25 otherwise, establish procedures which require the mainte-

1 nance of records and the submission of reports by foreign
2 investors, and by such other persons as he determines to be
3 appropriate with respect to—

4 (A) any foreign investment in a United States com-
5 pany whose equity security is publicly traded on a na-
6 tional securities exchange or otherwise in the United
7 States if, after such investment, the foreign investor owns
8 or controls, directly or indirectly as the beneficial owner,
9 5 per centum or more of the equity securities of such
10 company, except that the Secretary may by regulation
11 establish a lower percentage of ownership requirement
12 consistent with the purposes of this Act—

13 (i) if he has reason to believe that two or more
14 foreign investors have acted in concert, or may act
15 in concert in the future, to acquire an aggregate of 5
16 per centum or more of such companies; or

17 (ii) in other circumstances where the impor-
18 tance of an industry, or the highly dispersed owner-
19 ship of a given industry or company makes it ad-
20 visable to establish a lower percentage requirement
21 in order to fulfill the objectives of this Act.

22 (B) any foreign investment in the United States
23 company whose stock is not publicly traded on a na-
24 tional securities exchange or otherwise in the United
25 States, if—

1 (i) after such investment 10 per centum or
2 more of the equity securities of such company is
3 owned or controlled, directly or indirectly as the
4 beneficial owner, by the foreign investor; and

5 (ii) at the time of such investment the total
6 assets of such company have a value of \$3,000,000
7 or more.

8 (C) any foreign investment in the United States,
9 including but not limited to loans, long-term contracts,
10 and the ownership of property or interests in property
11 which the Secretary determines, on the basis of objective
12 economic and other criteria, shall be subject to the rec-
13 ordkeeping and reporting requirements under this sub-
14 section, if the substantial effect of such investment is—

15 (i) to give or could be to give the foreign in-
16 vestor a predominant influence on the management
17 or operation of a United States company described
18 in paragraph (A) or (B) of this subsection; or

19 (ii) to result in the ownership or control by
20 a foreign investor of more than \$1,000,000 in
21 property in the United States except that the Secre-
22 tary may establish a lower figure if he determines
23 that a lower figure is necessary to identify significant
24 foreign investments in the United States.

25 (D) any foreign investment in the United States in

1 real property with a fair market value in excess of
2 \$50,000, except that the Secretary may waive this
3 requirement if, after review, he determines that such
4 property is intended solely for personal use and contains
5 no exploitable natural resources and if such investment
6 does not exceed \$250,000;

7 (E) any foreign investment in United States Gov-
8 ernment or agency securities, notes, certificates of de-
9 posit, or other marketable instruments exceeding
10 \$1,000,000 per issue.

11 (2) The records and reports required under this section
12 shall include but not be limited to—

13 (A) the name or names of the foreign investors
14 involved;

15 (B) the nationality or citizenship and residence
16 of the foreign investor or investors;

17 (C) the country or countries with which any agency
18 or other organization which is a foreign investor is
19 affiliated or organized;

20 (D) the extent of the ownership or control which
21 is exercisable by such foreign investor, including—

22 (i) the details of any loan agreement, long-
23 term contract, or sale of assets; and

24 (ii) the number of shares beneficially owned,
25 including the number of shares to which there is a

1 right to acquire, directly or indirectly, by such for-
2 eign investor and by each member of the group
3 of such investors;

4 (3) Any report required under this section with respect
5 to an acquisition made after enactment of this Act shall be
6 submitted not later than ten days following the date of the
7 acquisition. Reports required under this section with respect
8 to existing foreign investments in the United States shall
9 be submitted to the Administration not later than ninety
10 days following enactment of this Act.

11 (c) The Secretary is further authorized to issue such
12 rules and regulations as he deems appropriate in accordance
13 with the purpose of this Act to require any United States
14 company which knows or has reason to know of a foreign
15 investor in that company qualifying under subsection (b)
16 of this section to report such investment to the
17 Administration.

18 (d) The Secretary shall publish a quarterly report on
19 the nature and scope of foreign investment in the United
20 States during the quarter covered by the report. Such re-
21 port shall include, but not be limited to, a listing of trans-
22 actions whose disclosure is required by this Act, the names
23 of United States companies in which foreign investments
24 covered by this Act have been made and the extent of such
25 investments, the Secretary's assessment of any significant

1 trends, on an industry-by-industry basis and in the aggre-
2 gate, of foreign investment in the United States during such
3 quarter, and such other information he deems appropriate,
4 but it shall not include any information whose disclosure
5 would cause competitive injury to the foreign investor or
6 the United States company. The first report shall be due
7 ninety days after enactment of this Act and shall be issued
8 quarterly thereafter.

9 (e) The Secretary shall issue an annual report to the
10 Congress no later than ninety days after the end of each
11 year on foreign investment in the United States. Such re-
12 port shall include, but not be limited to, the nature and
13 scope of foreign investment in the United States during
14 the previous year; the industries and economic sectors in
15 which significant foreign investment occurred; a list of
16 major United States companies in which significant foreign
17 investment occurred; an identification of the geographical
18 regions, to the extent practicable, where significant foreign
19 investment was made; an analysis of the economic impact
20 of foreign investment in the United States during the pre-
21 vious year, including the effects of such investment on the
22 United States balance of payments, balance of trade, em-
23 ployment, and economic competitiveness; a summary of
24 significant actions taken by the United States Government
25 to improve and consolidate programs, rules, and regula-

1 tions relating to foreign investment in the United States; a
2 list of policy changes or recommendations issued by the
3 Secretary; and such other factors as the Secretary deems
4 relevant and appropriate.

5 **GUIDELINES**

6 SEC. 7. The Secretary is authorized, after such hear-
7 ings and consultations with other agencies and individuals
8 as he deems necessary and appropriate, to issue periodically
9 statements pertaining to United States policies on foreign
10 investments in the United States companies and property.
11 Such statements shall contain recommendations and guide-
12 lines on foreign investments in United States companies or
13 industries which are determined to be important for reasons
14 of national security, foreign policy, or economic security.
15 Such statements shall be printed in the Federal Register
16 and be made available for distribution through the
17 Administration.

18 **USE OF INFORMATION**

19 SEC. 8. (a). The Administration may secure from any
20 agency of the United States any information relating to for-
21 eign investment in the United States necessary to enable it
22 to carry out its duties under this Act. Upon request of the
23 Director, each such department or agency is authorized to
24 furnish such information to the Administration on a reimburs-
25 able basis or otherwise. The Administration may also supply

1 information obtained under this section to other Federal
2 agencies and to foreign governments as deemed appropriate
3 by the Director except as otherwise provided in this Act.

4 (b) The provisions of section 1905 of title 18, United
5 States Code, shall apply to the Administration, its officers
6 and employees, with respect to information obtained under
7 this section or in any other manner. The Administration shall
8 not release, without written permission of the person to whom
9 it relates, any information described in section 552 (b) of
10 title 5, United States Code. In addition to the Secretary, the
11 only individuals who may have access to information ob-
12 tained under this Act but not required to be published are
13 those sworn employees, including consultants, of the Depart-
14 ment of Commerce designated by the Secretary.

15 (c) Except for a proceeding under section 9 (b) of this
16 Act, no report or constituent part thereof may be produced
17 for any Federal judicial or administrative proceeding. No
18 agency of the United States or employee thereof may compel
19 the Secretary or the Director or any person which maintained
20 or furnished any report under section 6 (a) or 6 (b) to submit
21 any such report or constituent part thereof to that agency
22 or any other agency of the United States.

23 (d) Nothing in this Act shall be construed to require
24 or to authorize the Secretary to publish or make available
25 to any other person or organization in any manner except

1 as herein authorized information which, if disclosed, would
2 encourage speculation or cause competitive injury to the for-
3 eign investor or United States company.

4 ENFORCEMENT

5 SEC. 9. (a) Whoever willfully fails to furnish any
6 information required pursuant to the authority of this Act,
7 whether required to be furnished in the form of a report or
8 otherwise, or to comply with any rule, regulation, order, or
9 instruction promulgated pursuant to the authority of this
10 Act may be assessed a civil penalty not exceeding \$10,000
11 for each infraction on a proceeding brought under subsection
12 (b) of this section.

13 (b) Whenever it appears to the Secretary that any
14 person has failed to furnish any information required pur-
15 suant to the provisions of this Act, whether required to be
16 furnished in the form of a report or otherwise, or has failed
17 to comply with any rule, regulation, order, or instruction
18 promulgated pursuant to the authority of this Act, he may
19 in his discretion bring an action, in the proper district court
20 of the United States or the proper United States court of
21 any territory or other place subject to the jurisdiction of the
22 United States, seeking a mandatory injunction commanding
23 such person to comply with such rule, regulation, order, or
24 instruction, and upon a proper showing a permanent or
25 temporary injunction or restraining order shall be granted

1 without bond, and such person shall also be subject to the
2 civil penalty provided in subsection (a) of this section.

3 (c) In any case in which the Secretary determines that
4 any foreign investor has made an investment subject to the
5 requirements of section 6 (b) and that such person has failed
6 to comply with the provisions of such section, after such
7 notice and opportunity for hearing as he determines to be
8 appropriate, he may bring an action in the proper United
9 States district court seeking the suspension of any and all
10 voting rights of the securities until such time as the foreign
11 investor or his agent complies with the provisions of this
12 Act or such securities are sold. If the court determines that
13 the company's financial condition requires the exercise of
14 voting rights, it may authorize the Secretary to exercise
15 such rights. In the case of loan or long-term contractual
16 agreements, the Secretary may bring an action in the proper
17 United States district court to prohibit the exercise of any
18 provision of such loan agreement or contract with respect
19 to management or operational rights until the foreign in-
20 vestor or his agent complies with the provisions of this Act
21 or until such loan or contract agreement terminates.

22 (d) Whoever willfully fails to submit any information
23 required pursuant to this Act, whether required to be fur-
24 nished in the form of a report or otherwise, or willfully
25 violates any rule, regulation, order, or instruction promul-

1 gated pursuant to the authority of this Act shall, upon
2 conviction be fined not more than \$10,000 or, if a natural
3 person, may be imprisoned for not more than one year or
4 both, and any officer, director, or agent of any corporation
5 who knowingly participates in such violation may be pun-
6 ished by a like fine, imprisonment, or both.

7 (e) The Secretary or his duly authorized agent shall
8 have authority, for any purpose related to this Act, to sign
9 and issue subpoenas for the attendance and testimony of wit-
10 nesses and the production of relevant books, papers, and
11 other documents, and to administer oaths. Witnesses sum-
12 moned under the provisions of this section shall be paid the
13 same fees and mileage as are paid to witnesses in the courts
14 of the United States. In case of refusal to obey a subpoena
15 served upon any person under the provisions of this section,
16 the Secretary or his delegate, may request the Attorney
17 General to seek the aid of the United States district court for
18 any district in which such person is found to compel that
19 person, after notice, to appear and give testimony, or to
20 appear and produce the documents before the agency.

21 AUTHORIZATION FOR APPROPRIATION

22 SEC. 10. There is authorized to be appropriated sums
23 as may be necessary to carry out the provisions of this Act.

A BILL

To regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes.

By Mr. INOUYE, Mr. ALLEN, Mr. BAYH, Mr. HUDDLESTON, Mr. METCALF, Mr. PEARSON, and Mr. STONE

MARCH 21 (legislative day, MARCH 12), 1975

Read twice and, by unanimous consent, referred to the Committee on Commerce and, if and when reported, then to the Committee on Banking, Housing and Urban Affairs

S. 1303

Referred to the Committee on Commerce and ordered to be printed

Intended to be proposed by Mr. STEVENS to S. 1303, a bill to regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes, viz: Strike all after the enacting clause and insert in lieu thereof the following:

★(Star Print)

1 or otherwise, of an interest in a business concern or
2 property which is located wholly or substantially in the
3 United States or which is owned or controlled wholly or
4 substantially by individuals who are residents of the
5 United States or by any person owned or controlled by
6 such individuals.

7 (2) The term "foreign investor" means—

8 (A) Any government of a foreign country or
9 any agency thereof;

10 (B) an international agency;

11 (C) any enterprise or instrumentality which,
12 in the judgment of the Secretary, is wholly or sub-
13 stantially controlled by a foreign government or
14 combination of foreign governments;

15 (D) any association whose members are gov-
16 ernments of a foreign country, or any foreign official
17 institution such as foreign central banks or develop-
18 ment banks, or other organization, as defined by the
19 Secretary;

20 (E) an individual who is not a resident of the
21 United States; and

22 (F) any person or entity which, directly or
23 indirectly, is owned or controlled by, or acting as
24 an agent or trustee for, one or more foreign gov-
25 ernments, agencies, organizations, or individuals.

1 (3) The term "domestic business" means any
2 corporation, partnership, trust, joint venture, enterprise,
3 or other association or entity, which is located in the
4 United States or which is owned or controlled wholly
5 or substantially by individuals who are residents of the
6 United States or United States citizens.

7 (4) The term "property" means any real or per-
8 sonal property and any other thing of value, including
9 the right to acquire or control any real or personal
10 property.

11 (5) The term "Secretary" means the Secretary of
12 Commerce.

13 ACQUISITION OF INFORMATION

14 SEC. 3. (a) For purposes of carrying out the provisions
15 of this Act, the Secretary shall, by regulation, order, or
16 otherwise, establish and maintain procedures which require
17 the maintenance of records and the submission of reports
18 by foreign investors and obtain such information from, re-
19 quire such reports and the keeping of such records by, make
20 such inspections of the books, records, and other writings,
21 premises, or property of, such persons as may be necessary
22 or appropriate, including foreign investors and agents of
23 foreign investors, with respect to—

24 (1) any investment by a foreign investor in any
25 domestic business—

1 (A) having sales or revenues of \$1,000,000 or
2 more during its most recent full fiscal year;

3 (B) which would result in the ownership by
4 any such foreign investor of 5 per centum or more
5 of the total amount of outstanding equity securities
6 of such domestic business; or

7 (C) which would result in the ownership by
8 any such foreign investor of 5 per centum or more
9 of all outstanding indebtedness of any such business,
10 or in the ownership by such investor of debt se-
11 curities having a value of at least \$500,000, which-
12 ever is less;

13 (2) any multiple purchase or exchange, or series
14 of purchases or exchanges, which would result in the
15 ownership of \$5,000,000 or more of the outstanding
16 equity securities of any domestic business; or

17 (3) any investment by a foreign investor in any
18 property which has a fair market value of \$1,000,000
19 or more; or

20 (4) any investment which would result in the
21 acquisition of control of a domestic business by a foreign
22 investor.

23 (b) The records and reports required under this section
24 shall include—

1 (1) the name or names of the foreign investors
2 involved;

3 (2) the nationality or citizenship and place of
4 residence of any individual foreign investors involved;

5 (3) the country or countries with which any agency
6 or other organization which is a foreign investor is
7 affiliated;

8 (4) the extent of the ownership or control which is
9 exercisable by such foreign investor; and

10 (5) such other information as the Secretary may
11 require.

12 (c) Reports relating to investments which may occur
13 after the date of enactment of this Act shall be submitted at
14 least thirty days prior to the proposed date of the investment.

15 (d) The Secretary shall publish a quarterly summary
16 and analysis of the nature and scope of foreign investment
17 in the United States during the quarter covered by the re-
18 port. Such quarterly summary and analysis shall also con-
19 tain the Secretary's assessment of any significant trends in
20 foreign investment in the United States during such quarter.

21 (e) Not later than one hundred and twenty days after
22 the date of enactment of this Act, the Secretary shall collect
23 and publish with respect to each business concern or prop-
24 erty described in paragraphs (1) through (4) of subsection

1 (a) the following information as of the date of enactment of
2 this Act:

3 (1) The name of each foreign investor who has
4 an interest in such business concern or property, and the
5 nature and extent of such interest.

6 (2) The nationality or citizenship and place of res-
7 idence of each such investor who is an individual.

8 (3) The country or countries with which any
9 agency or other organization which is a foreign investor
10 is affiliated.

11 (f) The Secretary may by rule establish additional re-
12 porting requirements for—

13 (1) any foreign investment in real property, in-
14 cluding any right, title, or interest in land containing
15 mineral resources; and

16 (2) any foreign investment in any transportation
17 industry, including a pipeline or petroleum storage facil-
18 ity.

19 **FOREIGN INVESTMENT REVIEW**

20 **SEC. 4. (a)** A foreign investor may make or continue
21 to hold an investment which is subject to the recordkeeping
22 and reporting requirements under section 3 (a) only in ac-
23 cordance with the provisions of this section.

24 (b) Not later than one hundred and twenty days after
25 the publication of the information referred to in section 3

1 (d), the Secretary shall review all investments referred to in
2 such section. If the Secretary determines, after consultation
3 with the Attorney General, the Secretary of State, the Sec-
4 retary of the Interior, the Secretary of Defense, the Secretary
5 of Labor, and when applicable, the Secretary of Transporta-
6 tion, that any such investment is contrary to the national
7 defense or economic viability of the United States, he shall
8 issue an order prohibiting the continued holding of such in-
9 vestment, and requiring divestiture, as appropriate.

10 (c) The Secretary shall review all information with
11 respect to any investment which is proposed to be made after
12 the date of enactment of this Act and, not later than thirty
13 days after the receipt of the information relating to that in-
14 vestment required under section 3, make an initial determi-
15 nation whether such investment warrants further review.
16 If the Secretary determines that such investment warrants
17 further review, the investment may not be made prior to the
18 expiration of thirty days following such notice.

19 (d) In any case where notice under subsection (c) is
20 given, such investment shall be deemed to be approved, un-
21 less, within thirty days after the receipt of such notice, the
22 Secretary issues an order disapproving the investment.

23 (e) The President may review any determination or
24 order by the Secretary under this section, and in any case
25 where the Secretary has issued an order disapproving a for-

1 eign investment, the President may, by order or otherwise,
2 permit such investment.

3 (f) For the purpose of enforcing any order issued un-
4 der this section, the Secretary may in his discretion request
5 the Attorney General to bring an action in the appropriate
6 district court of the United States or the United States Dis-
7 trict Court for the District of Columbia or the United States
8 court of any other place subject to the jurisdiction of the
9 United States, to compel compliance therewith, and upon a
10 proper showing a permanent or temporary injunction or
11 restraining order shall be granted without bond.

12 IMPLEMENTATION

13 SEC. 5. (a) The Secretary shall establish such pro-
14 cedures as may be necessary to enforce this Act, and to
15 insure the confidentiality of all matters concerning any in-
16 vestment which would not otherwise be made available to
17 other parties under law.

18 (b) For purposes of carrying out this Act, the Secre-
19 tary may request from any department or agency of the
20 United States, and that department or agency shall provide
21 him, any information relating to foreign investment in the
22 United States.

23 (c) The Secretary, or his duly authorized agent, shall
24 have authority, for any purpose related to this Act, to sign

1 and issue subpoenas for the attendance and testimony of
2 witnesses and the production of relevant books, papers, and
3 other documents, and to administer oaths. Witnesses sum-
4 moned under the provisions of this section shall be paid the
5 same fees and mileage as are paid to witnesses in the courts
6 of the United States. In case of refusal to obey a subpoena
7 served upon any person under the provisions of this section,
8 the Secretary or his delegate, may request the Attorney
9 General to seek the aid of the United States district court
10 for any district in which such person is found to compel
11 that person, after notice, to appear and give testimony, or
12 to appear and produce documents before the agency.

13 (d) In order to carry out the provisions of this Act,
14 the Secretary is further authorized—

15 (1) to hold such hearings at such times and places
16 as he determines to be appropriate;

17 (2) appoint and fix the compensation of such ad-
18 ditional personnel as may be necessary; and

19 (3) procure the temporary or intermittent services
20 of experts and consultants in accordance with the pro-
21 visions of section 3109 of title 5, United States Code, at
22 rates to be fixed by the Secretary, but not in excess
23 of the maximum rate payable under such section, plus
24 travel expenses, including per diem in lieu of subsistence,

1 as authorized by section 5703 (b) of title 5, United
2 States Code, for persons in the Government service
3 employed intermittently.

4 PENALTIES

5 SEC. 6. (a) Whoever willfully fails to maintain a record
6 or submit a report required under this Act or otherwise
7 willfully violates this Act or any regulation or order here-
8 under shall be fined not more than \$10,000 for each viola-
9 tion or imprisoned not more than five years for each viola-
10 tion, or both.

11 (b) In any case in which the Secretary determines that
12 any foreign investor has acquired, directly or indirectly,
13 ownership or control of a business concern or property, that
14 such acquisition is subject to the requirements of section 3,
15 and that such person failed to comply with the provisions of
16 such section, he may, after such notice and opportunity for
17 hearing as he determines to be appropriate, issue an order
18 prohibiting the exercise of any voting rights so acquired.
19 Any such order shall remain in effect until such time as
20 the Secretary finds that such person has complied with such
21 requirements. In carrying out the provisions of this section,
22 the Secretary is authorized (1) to appoint a trustee or
23 receiver of, or make other arrangements with respect to,
24 any securities or other indicia of ownership of control
25 acquired without the compliance with the reporting require-

1 ments of section 3, and (2) if control of the business concern
2 has been obtained without compliance with such require-
3 ments, to appoint a trustee or receiver of, or make other
4 arrangements with respect to, the business concern or
5 property.

6 INJUNCTIONS

7 SEC. 7. Whenever it appears to the Secretary that any
8 person has failed to comply with the requirements of sec-
9 tion 1, he may request the Attorney General to bring an
10 action in the appropriate district court of the United States
11 to compel compliance with such requirements, and upon a
12 proper showing a temporary restraining order or a prelimi-
13 nary or permanent injunction shall be granted without bond.
14 In addition to such injunctive relief, such court may also
15 order the payment of any civil penalty imposed under section
16 5. In addition, such court may, upon a proper showing, order
17 that any investment made or retained in violation of the
18 requirements imposed under this Act be sold or otherwise
19 disposed of in such manner and during such period of time
20 as the court may prescribe in order to achieve compliance
21 with the provisions of this Act.

22 ADMINISTRATIVE PROVISIONS

23 SEC. 8. (a) The provisions of this Act shall be carried
24 out by the Secretary through a Foreign Investment Review
25 Commission, which is hereby established in the Department

1 of Commerce, and, with the assistance of the Assistant Sec-
2 retary of Commerce for Domestic and International Business;
3 who shall supervise and direct the Commission created here-
4 in. Such Assistant Secretary shall perform such functions as
5 the Secretary may prescribe. There shall be appointed by
6 the President, by and with the advice and consent of the
7 Senate, a Commissioner for Foreign Investment Review who
8 shall be compensated at the rate provided for level V of the
9 Executive Review Administration and perform such other
10 duties as are assigned by the Secretary under the direction
11 of the Assistant Secretary for Domestic and International
12 Business.

13 (b) The Secretary is authorized to prescribe such rules
14 and regulations as may be necessary to carry out the pur-
15 poses of this Act.

16 (c) (1) Section 5315 (12) and title 5, United States
17 Code, is amended by striking out “(6)” and inserting in
18 lieu thereof “(7)”.

19 (2) Section 5316 of such title is amended by adding at
20 the end thereof the following:

21 “(135) Commissioner for Foreign Investment
22 Review.”.

23 **AUTHORIZATION**

24 SEC. 9. There are authorized to be appropriated such
25 sums as may be necessary to carry out the provisions of this
26 Act.

Amdt. No. 393

94TH CONGRESS
1ST SESSION

S. 1303

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. STEVENS to S. 1303, a bill to regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes.

MAY 5 (legislative day, APRIL 21), 1975

Referred to the Committee on Commerce and ordered to be printed

S. 3084

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1976

Mr. PROXMIRE (for himself, Mr. PACKWOOD, Mr. STEVENSON, and Mr. TOWER)
(all by request) introduced the following bill; which was read twice and
referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To extend the Export Administration Act of 1969, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Export Administration Act of 1969 (Public Law
4 91-184, 50 U.S.C. App. 2401, et seq.), as amended, is
5 further amended by striking out "September 30, 1976" in
6 section 14, and inserting in lieu thereof "September 30,
7 1979."

A BILL

To extend the Export Administration Act of
1969, as amended.

By Mr. PROXMIRE, Mr. PACKWOOD, Mr. STEVEN-
SON, and Mr. TOWER

MARCH 4, 1976

Read twice and referred to the Committee on
Banking, Housing and Urban Affairs

94TH CONGRESS
2D SESSION

Calendar No. 872

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 8 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. STEVENSON to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz: On page 8, between lines 4 and 5, insert the following:

1 SEC. 110. (a) It is the sense of the Congress that the
2 President should actively seek, and by the earliest possible
3 date secure, an agreement or other arrangement whereby—
4 (A) nuclear exporting nations will not transfer to
5 any other nation any equipment, material, or technology
6 designed or prepared for, or which would materially
7 assist the establishment of, national uranium enrichment,
8 nuclear fuels reprocessing, or heavy water production
9 facilities until and while alternatives to such national
10 facilities are explored and pursued;

Amdt. No. 1785

1 (B) nuclear exporting nations will not transfer any
2 nuclear equipment, material, or technology to any other
3 nation that has not agreed to implement safeguards
4 promulgated by the International Atomic Energy
5 Agency;

6 (C) minimum physical security standards are estab-
7 lished to prevent the unauthorized diversion of nuclear
8 equipment, materials, and technology;

9 (D) arrangements are established for effective and
10 prompt responses in the event of violations of any inter-
11 national agreement to control the use of nuclear ma-
12 terials and technology; and

13 (E) nuclear exporting nations, in cooperation with
14 nuclear importing nations, pursue the concept of multi-
15 national facilities for the purpose of meeting the world's
16 nuclear fuel needs while reducing the risks associated
17 with the spread of national facilities for fuel reprocessing,
18 fabrication, or enrichment.

19 Within one year of the enactment of the Export Adminis-
20 tration Amendments of 1976, the President shall report to
21 the Congress on the progress made toward the achievement
22 of international agreement or other arrangements on the
23 matters specified herein.

1 (b) For purposes of this section, the term “nuclear
2 exporting nations” means the United States, the United
3 Kingdom, France, the Federal Republic of Germany, Can-
4 ada, Japan, the Union of Soviet Socialist Republics, and
5 such other countries as the President may determine.

Amdt. No. 1785

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

AMENDMENT

Intended to be proposed by Mr. STEVENSON to
S. 3084, a bill to extend the Export Admin-
istration Act of 1969, as amended.

JUNE 8 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2^D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084, a bill to extend
the Export Administration Act of 1969, as amended, viz:

- 1 Insert in line 17, page 15 of the bill after the word
2 “section” the following: “, and who is not a national of
3 the United States,”.

Amdt. No. 1792

Amdt. No. 1792

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

JUNE 9 (legislative day, JUNE 3), 1976
Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TART to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz: Insert at an appropriate place in the bill the following new title:

1 TITLE IV—TENDER OFFER WAITING PERIOD

2 SEC. 401. This title may be cited as the “Full Disclosure
3 Tender Act of 1976”.

4 SEC. 402. (a) Section 14 (d) (1) of the Securities Ex-
5 change Act of 1934 is amended by inserting after the words
6 “has filed with the Commission”, the following new phrase:
7 “, at least thirty days prior to such offer or request or
8 invitation,”.

9 (b) Such section is further amended by replacing the
10 phrase “section 13 (d)” with the phrase “sections 12 (b)
11 and 13 (d)”.

Amdt. No. 1793

1 (c) Such section is further amended by adding after the
2 second sentence: "A copy of such statement shall be sent by
3 the Commission, within five days of its receipt of such state-
4 ment, to the officers of the issuer of the shares which are the
5 subject of such offer or request or invitation."

6 SEC. 403. The amendments made by this Act shall apply
7 to any tender offer made after the effective date of this Act.

Amdt. No. 1793

Calendar No. 872

**94TH CONGRESS
2D SESSION**

S. 3084

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

JUNE 9 (legislative day, JUNE 3), 1976
Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz:

1 Insert after the word "require" in line 5, page 16 of the
2 bill the following clause: " , except that the Commission
3 shall not make public nor cause to be publicized any reports
4 pursuant to paragraph (1) of this subsection or pursuant to
5 this paragraph which concern a security issued by a firm
6 having gross annual receipts of less than \$400,000,000:
7 *Provided*, That such information may be transmitted in con-
8 fidence to committees of the Congress and to councils or
9 departments of the executive branch which deal with foreign
10 investment in the United States".

Amdt. No. 1794

Amdt. No. 1794

Calendar No. 872

**94TH CONGRESS
2^D Session**

S. 3084

AMENDMENT

Intended to be proposed by Mr. Tarr to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

JUNE 9 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2^D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084, a bill to extend
the Export Administration Act of 1969, as amended, viz:

- 1 Insert after the word "section" in line 17, page 15 of
- 2 the bill, the following phrase: ": *Provided*, That the issuer
- 3 of the security shall have gross annual receipts of more than
- 4 \$400,000,000,".

Amdt. No. 1795

Amdt. No. 1795

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

JUNE 9 (legislative day, JUNE 8), 1976
Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 3), 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz: At the end of line 2, page 19 of the bill, insert the following new paragraph:

- 1 (7) The provisions of this subsection shall not be appli-
- 2 cable in the case of a security issued by a firm having gross
- 3 annual receipts of less than \$400,000,000.

Amdt. No. 1796

Amdt. No. 1796

Calendar No. 872

94TH CONGRESS
2d Session

S. 3084

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

JUNE 9 (legislative day, JUNE 8), 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 3), 1976
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz:

1. Strike out all after line 10, page 15 of the bill, up to
2. and including line 2, page 19 of the bill.

Amdt. No. 1797

94TH CONGRESS
2D SESSION

S. 3084

AMENDMENT

Intended to be proposed by Mr. TAFT to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

JUNE 9 (legislative day, JUNE 8), 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

JUNE 16, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. DOLE to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz: On page 8, between lines 4 and 5, insert a new section as follows:

1 SEC. 110. Section 4 of the Act is amended by adding
2 at the end thereof a new subsection (k) as follows:

3 “(k) (1) Neither the President nor any other officer,
4 agency, or instrumentality of the Federal Government may
5 require or provide on a voluntary basis for the prior approval
6 of the export sales of feed grains, wheat, soybeans, other
7 agricultural commodities, or the products thereof.

8 “(2) Neither the President nor any other officer, agency,
9 or instrumentality of the Federal Government, may restrict
10 the export sales of feed grains, wheat, soybeans, other agri-
11 cultural commodities, or the products thereof, through the

Amdt. No. 1870

1 negotiation of voluntary restraints on the sale of any com-
 2 modity to a foreign government or agent thereof.”.

Amdt. No. 1870

Calendar No. 872

**94TH CONGRESS
 2d Session**

S. 3084

AMENDMENT

Intended to be proposed by Mr. Dole to
 S. 3084, a bill to extend the Export Admin-
 istration Act of 1969, as amended.

JUNE 16, 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

AUGUST 9, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. DOLE to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz: On page 8, between lines 4 and 5, insert a new section as follows:

1 SEC. 110. Section 4 (f) of the Act is amended by adding
2 at the end of paragraph (1), as designated by section 108 of
3 this Act, a new sentence as follows: "Notwithstanding any
4 other provision of law, neither the President nor any other
5 officer, agency, or instrumentality of the Federal Govern-
6 ment shall take action to reduce exports of any agricultural
7 commodity during any period, for the purpose of reducing or
8 otherwise controlling the rate of domestic inflation, on the
9 basis of actions by labor unions or organizations representing
10 consumers unless the Secretary of Agriculture determines—

Amdt. No. 2191

- 1 in consultation with the producers of the commodity—that
2 the supply of the commodity is less than the amount needed
3 to meet the requirements of the domestic economy.”.

Amdt. No. 2191

Calendar No. 872

**94TH CONGRESS
2D SESSION**

S. 3084

AMENDMENT

Intended to be proposed by Mr. Dole to S. 3084,
a bill to extend the Export Administration
Act of 1969, as amended.

AUGUST 9, 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

AUGUST 25, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. INOUE to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz:

1 On page 7, line 3, insert the following: "Petroleum
2 products refined in United States foreign-trade zones from
3 foreign crude oil shall be excluded from any quantitative re-
4 strictions imposed pursuant to section 3 (2) (A) of this Act
5 and the provisions of section 103 (a) of the Energy Policy
6 and Conservation Act."

Amdt. No. 2223

Amdt. No. 2223

Calendar No. 872

94TH CONGRESS
2^D Session

S. 3084

AMENDMENT

Intended to be proposed by Mr. INOUYE to
S. 3084, a bill to extend the Export Admin-
istration Act of 1969, as amended.

August 25, 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

IN THE SENATE OF THE UNITED STATES

AUGUST 25, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. CHURCH to S. 3084, a bill to extend the Export Administration Act of 1969, as amended, viz: At the end of the bill add the following:

1 TITLE IV—MISCELLANEOUS

2 SEC. 401. (a) Section 237 of the Foreign Assistance
3 Act of 1961 is amended by adding at the end thereof the
4 following new subsection:

5 “(1) (1) The Corporation shall issue such regulations
6 and take such other steps as are necessary to provide for the
7 termination of any insurance or reinsurance issued under this
8 title which is applicable to any investor with respect to a
9 project if the Corporation determines in accordance with
10 paragraph (2) that such investor or any agent of such
11 investor—

Amdt. No. 2224

1 “(A) has offered, paid, or agreed to pay any
2 significant amount of money or has offered, given, or
3 promised to give anything of significant value to an
4 individual who is an official of a foreign government or
5 instrumentality thereof for the purpose of inducing that
6 individual to use his influence within such foreign gov-
7 ernment or instrumentality to affect any decision or
8 other action of such foreign government or instrumen-
9 tality with respect to such project;

10 “(B) has paid or agreed to pay any significant
11 amount of money or has given or agreed to give any-
12 thing of significant value to any person knowing or
13 having reason to know that all or a portion of such
14 moneys or thing of value will be offered, given, or prom-
15 ised, directly or indirectly, to any individual who is an
16 official of a foreign government or instrumentality
17 thereof for the purpose of inducing that individual to
18 use his influence within such foreign government or
19 instrumentality to affect any decision or other action of
20 such foreign government or instrumentality with respect
21 to such project; or

22 “(C) has paid or agreed to pay any significant
23 amount of money or has given or agreed to give any-
24 thing of significant value to any foreign political party
25 or official thereof or any candidate for foreign political

1 office for the purpose of inducing that party, official, or
2 candidate to use its or his influence with a foreign gov-
3 ernment or instrumentality thereof to affect any decision
4 or other action of such foreign government or instrumen-
5 tality with respect to such project.

6 “(2) (A) If the Corporation has reason to believe that
7 an investor or an agent of an investor has taken any action
8 described in subparagraph (A), (B), or (C) of paragraph
9 (1), the Corporation shall initiate proceedings to determine
10 whether such action was taken. If the Corporation deter-
11 mines that such action was taken, then any insurance or rein-
12 surance issued under this title, which is applicable to the
13 investor with respect to the project in conjunction with
14 which the action was taken shall be canceled as of the end
15 of the fifteenth day following the date on which notice of
16 such determination is mailed to the investor.

17 “(B) Regulations pursuant to this subsection shall be
18 issued in accordance with section 553 of title 5, United States
19 Code. Determinations under this subsection shall be made on
20 the record after notice and opportunity for a hearing in
21 accordance with section 554 of such title. Determinations
22 under this subsection shall constitute final agency action and
23 may be appealed by any person adversely affected thereby
24 to the United States Court of Appeals for the District of
25 Columbia, or for the circuit in which the person resides or

1 has his principal place of business, for review in accordance
2 with chapter 7 of such title.”.

3 (b) The amendment made by subsection (a) shall not
4 apply to actions taken prior to the effective date of the regu-
5 lations issued pursuant to such amendment. Such regulations
6 shall be issued and shall become effective not later than 90
7 days after the date of enactment of this Act.

Amdt. No. 2224

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

AMENDMENT

Intended to be proposed by Mr. Church to
S. 3084, a bill to extend the Export Admin-
istration Act of 1969, as amended.

August 25, 1976

Ordered to lie on the table and to be printed

Calendar No. 872

94TH CONGRESS
2D SESSION

S. 3084

[Report No. 94-917]

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1976

Mr. PROXMIRE (for himself, Mr. PACKWOOD, Mr. STEVENSON, Mr. TOWER, and Mr. WILLIAMS) (all by request) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

MAY 25, 1976

Reported by Mr. STEVENSON, with an amendment, and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To extend the Export Administration Act of 1969, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Export Administration Act of 1969 (~~Public Law~~
4 ~~91-184, 50 U.S.C. App. 2401, et seq.~~), as amended, is
5 further amended by striking out “September 30, 1976” in
6 section 14, and inserting in lieu thereof “September 30,
7 1979.”.

8 *TITLE I—EXPORT ADMINISTRATION IM-*
9 *PROVEMENTS AND EXTENSION*

10 *SEC. 101. This title may be cited as the “Export Ad-*
11 *ministration Amendments of 1976”.*

1 *SEC. 102. The Export Administration Act of 1969, as*
2 *amended (hereinafter in this title referred to as the "Act")*
3 *is amended by striking "September 30, 1976" in section 14*
4 *and inserting in lieu thereof "September 30, 1979."*

5 *SEC. 103. (a) Section 4(b)(1) of the Act is amended*
6 *by inserting at the end thereof the following "In administer-*
7 *ing export controls for national security purposes as pre-*
8 *scribed in section 3(2)(C) of this Act, United States policy*
9 *toward individual countries shall not be determined ex-*
10 *clusively on the basis of a country's Communist or non-Com-*
11 *munist status but shall take into account such factors as the*
12 *country's present and potential relationship to the United*
13 *States, its present and potential relationship to countries*
14 *friendly or hostile to the United States, its ability and*
15 *willingness to control retransfers of United States ex-*
16 *ports in accordance with United States policy, and such*
17 *other factors as the President may deem appropriate. The*
18 *President shall periodically review United States policy*
19 *toward individual countries to determine whether such policy*
20 *is appropriate in light of the factors specified in the pre-*
21 *ceding sentence. The results of such review, together with*
22 *the justification for United States policy in light of such*
23 *factors, shall be included in the semiannual report of the*
24 *Secretary of Commerce required by this Act for the first*
25 *half of 1977 and in every second such report thereafter."*

1 (b) (1) Section 4(h) of the Act is amended by striking
2 the term “controlled country” in the first sentence of para-
3 graph (1) thereof and the second sentence of paragraph (2)
4 thereof and inserting in lieu thereof “country named by the
5 President pursuant to the last sentence of section 4(b) (1) of
6 this Act”.

7 (2) Section 4(h) (2) (A) of the Act is amended by
8 striking “controlled” and inserting in lieu thereof “such”.

9 (3) Section 4(h) (4) of the Act is amended by striking
10 everything following the semicolon at the end of subpara-
11 graph (B) thereof and inserting a period in lieu of the
12 semicolon.

13 (c) The amendments made by subsection (b) shall become
14 effective upon the expiration of ninety days after the receipt
15 by the Congress of the report referred to in the last sentence
16 of section 4(b) (1) of the Act.

17 SEC. 104. Section 4(b) (4) of the Act is amended to
18 read as follows:

19 “(4) The Secretary of Commerce, in cooperation with
20 appropriate United States Government departments and
21 agencies and the appropriate technical advisory committees
22 established pursuant to this Act, shall undertake an investiga-
23 tion to determine whether United States unilateral controls
24 or multilateral controls in which the United States partici-
25 pates should be removed, modified, or added with respect to

1 particular articles, materials, and supplies, including tech-
2 nical data and other information, in order to protect the na-
3 tional security of the United States. Such investigation shall
4 take into account such factors as the availability of such
5 articles, materials, and supplies from other nations and the
6 degree to which the availability of the same from the United
7 States or from any country with which the United States
8 participates in multilateral controls would make a significant
9 contribution to the military potential of any nation threatening
10 or potentially threatening the national security of the United
11 States. As part of such investigation, the Secretary of Com-
12 merce shall explore ways of simplifying and clarifying lists
13 of articles, materials, and supplies subject to export controls.
14 The results of such investigation shall be reported to the Con-
15 gress not later than 18 months after enactment of the Export
16 Administration Amendments of 1976.”.

17 SEC. 105. Section 4 of the Act is amended by adding
18 a new subsection (j) thereto as follows:

19 “(j) Any person who enters into a contract, protocol,
20 agreement, or other understanding for, or which may result
21 in, the transfer of United States origin technical data or other
22 information to any nation to which exports are restricted for
23 national security or foreign policy purposes shall report such
24 transaction to the Secretary of Commerce and provide him
25 with copies of all documents pertaining thereto within thirty

1 days of entering into such contract, protocol, agreement, or
2 understanding.”

3 *SEC. 106. Section 4(g) of the Act is amended by adding*
4 *at the end thereof the following: “In any denial of an ex-*
5 *port license application, the applicant shall be informed in*
6 *writing of the specific statutory basis for such denial. When-*
7 *ever the Secretary determines that it is necessary to refer an*
8 *export license application to any multilateral review process*
9 *for approval, he shall first, if the applicant so requests, pro-*
10 *vide the applicant with an opportunity to review any docu-*
11 *mentation to be submitted to such process for the purpose of*
12 *describing the export in question, in order to determine*
13 *whether such documentation accurately describes the proposed*
14 *export.”.*

15 *SEC. 107. (a) Section 5(c)(1) of the Act is amended by*
16 *striking the word “two” in the last sentence thereof and in-*
17 *serting in lieu thereof the word “four”.*

18 *(b) The second sentence of section 5(c)(2) of the Act*
19 *is amended to read as follows: “Such committees, where they*
20 *have expertise in such matters, shall be consulted with respect*
21 *to questions involving (i) technical matters, (ii) worldwide*
22 *availability and actual utilization of production technology,*
23 *(iii) licensing procedures which affect the level of export*
24 *controls applicable to any articles, materials, and supplies,*
25 *including technical data or other information, and (iv) ex-*

1 ports subject to multilateral controls in which the United
2 States participates including proposed revisions of any such
3 multilateral controls. Such committees shall be informed of
4 the reasons for any failure to accept any advice or recom-
5 mendations which they may render or make to officials of
6 the United States Government.”.

7 SEC. 108. Section 4(f) of the Act is amended by des-
8 ignating the existing paragraph as subparagraph (1) and
9 adding at the end thereof the following new subparagraph:

10 “(2) Upon approval of the Secretary of Commerce, in
11 consultation with the Secretary of Agriculture, agricultural
12 commodities purchased by or for use in a foreign country
13 may remain in the United States for export at a later date
14 free from any quantitative limitations on export which may
15 be imposed pursuant to section 3(2)(A) of this Act subse-
16 quent to such approval. The Secretary of Commerce may
17 not grant approval hereunder unless he receives adequate
18 assurance that such commodities will eventually be exported,
19 that neither the sale nor export thereof will result in an
20 excessive drain of scarce materials and have a serious do-
21 mestic inflationary impact, that storage of such commodities
22 in the United States will not unduly limit the space available
23 for storage of domestically owned commodities, and that the
24 purpose of such storage is to establish a reserve of such
25 commodities for later use, not including resale to or use by

1 *another country. The Secretary of Commerce is authorized*
2 *to issue such rules and regulations as may be necessary to*
3 *implement this subparagraph.”.*

4 *SEC. 109. (a) Section 6(a) of the Act is amended by*
5 *striking out “\$10,000” and inserting in lieu thereof “\$25,-*
6 *000” and by striking out “\$20,000” and inserting in lieu*
7 *thereof “\$50,000”.*

8 *(b) Section 6(b) of the Act is amended—*

9 *(1) by striking out “Communist-dominated nation”*
10 *and inserting in lieu thereof “country named by the Pres-*
11 *ident pursuant to the last sentence of section 4(b)(1)”;*
12 *and*

13 *(2) by striking out “\$20,000” and inserting in lieu*
14 *thereof “\$50,000”.*

15 *(c) Section 6(c) of the Act is amended—*

16 *(1) by striking out “The head” and inserting in lieu*
17 *thereof “Except as otherwise provided in the second sen-*
18 *tence of this subsection, the head”;* and

19 *(2) by striking out “\$1,000” and inserting in lieu*
20 *thereof “\$10,000”.*

21 *(d) Section 6(d) of the Act is amended by adding at*
22 *the end thereof the following: “In addition, the payment of*
23 *any penalty imposed pursuant to subsection (c) may be*
24 *deferred or suspended in whole or in part for a period of*
25 *time no longer than any probation period (which may exceed*

1 one year) which may be imposed upon such person. Such a
2 deferral or suspension shall not operate as a bar to the col-
3 lection of the penalty in the event that the conditions of the
4 suspension, deferral, or probation are not fulfilled.”.

5 **TITLE II—FOREIGN BOYCOTTS**

6 *SEC. 201. This title may be cited as the “Foreign Boy-*
7 *cotts Act of 1976”.*

8 *SEC. 202. (a) Section 3(5)(A) of the Export Admin-*
9 *istration Act of 1969 (hereinafter in this title referred to as*
10 *the “Act”) is amended by inserting immediately after*
11 *“United States” the following: “or against any domestic*
12 *concern or person”.*

13 *(b) Section 3(5)(B) of the Act is amended by insert-*
14 *ing immediately after “United States” the following: “or*
15 *against any domestic concern or person”.*

16 *SEC. 203. (a) Section 4(b)(1) of the Act is amended*
17 *by striking out the next to the last sentence.*

18 *(b) Section 4(b) of the Act is amended by redesignat-*
19 *ing paragraphs (2) through (4) and any cross references*
20 *thereto as paragraphs (3) through (5), respectively, and*
21 *inserting after paragraph (1) a new paragraph (2) as*
22 *follows:*

23 *“(2)(A) Pursuant to such rules and regulations as he*
24 *may deem necessary and appropriate, the Secretary of Com-*

1 *merce shall implement the provisions of section 3(5) of this*
2 *Act.*

3 *“(B) Such rules and regulations shall require that any*
4 *domestic concern or person which receives a request for the*
5 *furnishing of information, the signing of agreements, or the*
6 *taking of any other action referred to in section 3(5) of this*
7 *Act shall report that fact to the Secretary of Commerce to-*
8 *gether with such other information concerning such request*
9 *as the Secretary may require for such action as he may deem*
10 *appropriate for carrying out the purposes of that section.*
11 *Such concern or person shall also report to the Secretary of*
12 *Commerce whether he intends to comply and whether he*
13 *has complied with such request. Any report filed pursuant to*
14 *this subparagraph after enactment of the Foreign Boycotts*
15 *Act of 1976 shall be made available promptly for public in-*
16 *spection and copying: Provided, however, That information*
17 *regarding the quantity, description, and value of any goods*
18 *to which such report relates may be kept confidential if the*
19 *Secretary determines that disclosure thereof would place the*
20 *domestic concern or person involved at a competitive disad-*
21 *vantage. The Secretary of Commerce shall report the results*
22 *of such reports to the Secretary of State on a periodic basis*
23 *for such action as the Secretary of State, in consultation*

1 *with the Secretary of Commerce, may deem appropriate for*
2 *carrying out the purposes of section 3(5) of this Act.*

3 “(C) Rules and regulations implementing such provi-
4 sions shall also prohibit domestic concerns and persons from
5 (i) furnishing information regarding any person’s race,
6 religion, or national origin to or for the use by any foreign
7 country, national, or agent thereof where such information
8 is sought for the purpose of enforcing or implementing a re-
9 strictive trade practice or boycott against a country friendly
10 to the United States or against any domestic concern or
11 person, or (ii) refusing to do business with any other do-
12 mestic concern or person pursuant to an agreement with,
13 requirement of, or a request from, or on behalf of, any for-
14 eign country, national, or agent thereof made or imposed for
15 the purpose of enforcing or implementing a restrictive trade
16 practice or boycott against a country friendly to the United
17 States or against any domestic concern or person. Any civil
18 penalty (including any suspension or revocation of the au-
19 thority to export) imposed under this Act for a violation of
20 rules or regulations issued under clause (ii) of the preceding
21 sentence may be imposed only after notice and opportunity
22 for an agency hearing on the record in accordance with
23 sections 554 through 557 of title 5, United States Code. The
24 provisions of this subparagraph (C) shall neither substitute
25 for nor limit the operation of the antitrust laws of the United

1 *States. The provisions of this subparagraph (C)(ii) shall*
2 *not apply to any conformity with requirements pertaining*
3 *to the identity of any carrier on which articles, materials, or*
4 *supplies are to be shipped so long as such requirements do*
5 *not have as their purpose the enforcement or implementa-*
6 *tion of a restrictive trade practice or boycott against a coun-*
7 *try friendly to the United States or against any domestic*
8 *concern or person.”.*

9 *SEC. 204. (a) Section 6(c) of the Act is amended by*
10 *adding at the end thereof the following: “The head of any*
11 *department or agency exercising any functions under this Act,*
12 *or any officer or employee of such department or agency*
13 *specifically designated by the head thereof, may impose a*
14 *civil penalty not to exceed \$10,000 for each violation of sec-*
15 *tion 4(b)(2) of this Act or of any rule or regulation issued*
16 *thereunder, either in addition to or in lieu of any other*
17 *liability or penalty which may be imposed under this Act. The*
18 *head of any department or agency exercising any function*
19 *under this Act relating to licensing, or any officer or employee*
20 *of such department or agency specifically designated by the*
21 *head thereof, may use the authority under this Act to suspend*
22 *or revoke the authority of a person to export articles, ma-*
23 *terials, supplies, or information from the United States for*
24 *each violation of section 4(b)(2) of this Act. Any charging*
25 *letter or other document initiating proceedings by the Secre-*

1 tary of Commerce after enactment of the Foreign Boycotts
2 Act of 1976 for the imposition of sanctions for violations of
3 section 4(b)(2) of this Act shall be made available for public
4 inspection and copying.”.

5 (b) Section 7(c) of the Act is amended by striking the
6 word “No” at the beginning thereof and inserting in lieu
7 thereof the following: “Except as otherwise provided by this
8 Act, no”.

9 SEC. 205. Section 10(b) of the Act is amended by add-
10 ing at the end thereof a new paragraph (3) as follows:

11 “(3) Each such report shall also contain a description
12 of actions taken by the President and the Secretary of Com-
13 merce to effect the policy of section 3(5) of this Act.”.

14 SEC. 206. Section 11 of the Act is amended by adding at
15 the end thereof the following: “The term ‘domestic con-
16 cern’ as used in this Act shall include but not be limited to
17 banks, other financial institutions, insurers, freight for-
18 warders, and shipping companies organized under the laws
19 of the United States or any State or any political subdivision
20 thereof.”.

21 TITLE III—DISCLOSURE

22 SEC. 301. This title may be cited as the “Domestic and
23 Foreign Investment Improved Disclosure Act of 1976”.

24 SEC. 302. Section 13(d)(1) of the Securities Exchange

1 *Act of 1934 (15 U.S.C. 78m) is amended to read as*
2 *follows:*

3 “(d)(1) *Any person who, after acquiring directly or*
4 *indirectly the beneficial ownership of any equity security of*
5 *a class which is registered pursuant to section 12 of this*
6 *title, or any equity security of an insurance company which*
7 *would have been required to be so registered except for the*
8 *exemption contained in section 12(g)(2)(G) of this title,*
9 *or any equity security issued by a closed-end investment*
10 *company registered under the Investment Company Act of*
11 *1940, is directly or indirectly the beneficial owner of more*
12 *than 5 per centum of such class shall, within ten days after*
13 *such acquisition, send to the issuer of the security at its prin-*
14 *cipal executive office, by registered or certified mail, send to*
15 *each exchange where the security is traded, and file with the*
16 *Commission, a statement containing such of the following in-*
17 *formation, and such additional information, as the Commis-*
18 *sion, by rule, may prescribe as necessary or appropriate in*
19 *the public interest or for the protection of investors—*

20 “(A) *the background, identity, residence, and na-*
21 *tionality of, and the nature of such beneficial ownership*
22 *by, such person and all other persons by whom or on*
23 *whose behalf the purchases have been or are to be*
24 *effected;*

1 “(B) the source and amount of the funds or other
2 consideration used or to be used in making the purchases,
3 and if any part of the purchase price or proposed pur-
4 chase price is represented or is to be represented by funds
5 or other consideration borrowed or otherwise obtained
6 for the purpose of acquiring, holding, or trading such
7 security, a description of the transaction and the names of
8 the parties thereto, except that where a source of funds is
9 a loan made in the ordinary course of business by a bank,
10 as defined in section 3(a)(6) of this title, if the person
11 filing such statement so requests, the name of the bank
12 shall not be made available to the public;

13 “(C) if the purpose of the purchases or prospective
14 purchases is to acquire control of the business of the
15 issuer of the securities, any plans or proposals which such
16 persons may have to liquidate such issuer, to sell its
17 assets to or merge it with any other persons, or to make
18 any other major change in its business or corporate
19 structure;

20 “(D) the number of shares of such security which
21 are beneficially owned, and the number of shares con-
22 cerning which there is a right to acquire, directly or
23 indirectly, by (i) such person, and (ii) by each asso-
24 ciate of such person, giving the background, identity,
25 residence, and nationality of each such associate; and

1 “(E) information as to any contracts, arrange-
2 ments, or understandings with any person with respect
3 to any securities of the issuer, including but not limited
4 to transfer of any of the securities, joint ventures, loan
5 or option arrangements, puts or calls, guaranties of
6 loans, guaranties against loss or guaranties of profits,
7 division of losses or profits, or the giving or withholding
8 of proxies, naming the persons with whom such contracts,
9 arrangements, or understandings have been entered into,
10 and giving the details thereof.”.

11 SEC. 303. Section 13 of the Securities Exchange Act
12 of 1934, as amended (15 U.S.C. 78m), is amended by
13 adding at the end thereof the following new subsection:

14 “(g)(1) Every holder of record of, and any other
15 person having an interest in, 2 per centum or more of any
16 security of a class described in subsection (d)(1) of this
17 section shall report such interest and such other informa-
18 tion, in such form and at such intervals (but in no event
19 more frequently than quarterly), as the Commission may,
20 by rule, prescribe.

21 “(2) Any person required to make reports pursuant
22 to paragraph (1) of this subsection shall file, publish, or
23 disseminate such reports in such manner and to such persons,
24 including the Commission, as the Commission may, by rule,
25 specify. Any issuer which receives reports pursuant to this

1 paragraph shall include in any filing or registration state-
2 ment it makes with the Commission, under the Federal
3 securities laws as defined in section 21(g) of this title,
4 such of the information contained in such reports as the
5 Commission may, by rule, require.

6 “(3) The 2 per centum figure in subsection (g)(1)
7 of this section shall be reduced to 1 per centum on
8 September 1, 1976, and to one-half of 1 per centum on
9 September 1, 1977: Provided, however, That the Commis-
10 sion may shorten or extend such periods if the Commission
11 first finds that such reduction or extension is not inconsistent
12 with the protection of investors or the public interest, after
13 giving appropriate consideration to, and receiving public
14 comments, views, and data on, the following matters:

15 “(A) the incidence of avoidance of reporting by
16 beneficial owners using multiple holders of record;

17 “(B) the cost of compliance to issuers and to record
18 holders;

19 “(C) the effect on the securities markets of such
20 action, including the system for the clearance and settle-
21 ment of securities transactions;

22 “(D) the benefits to investors and to the public;

23 “(E) and bona fide interests of an individual in the
24 privacy of his financial affairs;

25 “(F) the extent to which such reported information

1 *gives or would give any person an undue advantage in*
2 *connection with activities subject to sections 13(d) and*
3 *14(d) of this title;*

4 *“(G) the need for such information in connection*
5 *with the administration and enforcement of this title; and*

6 *“(H) such other matters as the Commission may*
7 *deem relevant, including the results of any study or*
8 *investigation it may undertake pursuant to this title and*
9 *the information obtained pursuant to section 13(f) of*
10 *this title.*

11 *The Commission shall report to the Congress on August*
12 *1, 1976, and again on August 1, 1977, the steps it has*
13 *taken, or plans to take, to implement, accelerate, or defer*
14 *the time periods set forth in this paragraph. In addition, the*
15 *Commission shall no later than January 2, 1978, report to*
16 *the Congress on the feasibility and desirability of reducing*
17 *the per centum figure in paragraph (3) to one-tenth of 1*
18 *per centum, after studying the impact of such reduction on*
19 *a reasonable sample of issuers, recordholders, and other per-*
20 *sons required to report under this subsection and after full*
21 *consideration of the matters referred to in clauses (A)*
22 *through (H).*

23 *“(4) The Commission shall have the authority, by*
24 *rule or by order, to exempt from the requirements of this*
25 *subsection any security, issuer, or person, or any class of*

1 securities, issuers, or persons, if it finds that such exemption
2 is not inconsistent with the public interest or the protection of
3 investors.

4 “(5) It shall be unlawful for any person, in contraven-
5 tion of such rules as the Commission may prescribe, to make
6 use of the mails or any other means or instrumentality of
7 interstate commerce to effect any transaction (for his own
8 account or the account of another) in any security of a class
9 described in subsection (d)(1) of this section, if such per-
10 son knew, or should have known, that information required
11 to be filed, published, or disseminated in accordance with
12 this subsection, either by the person effecting the transaction
13 or by the person on whose behalf, directly or indirectly, the
14 transaction is intended to be effected, has not been filed,
15 published, or disseminated.

16 “(6) In exercising its authority under this subsection,
17 the Commission shall take such steps as are within its power,
18 including consulting with the Comptroller General of the
19 United States, the Director of the Office of Management and
20 Budget, the appropriate regulatory agencies referred to in
21 section 34(D) of this title, and other Federal authorities
22 which, directly or indirectly, require reports substantially
23 similar to that called for by this subsection (A) to achieve
24 uniform, centralized reporting of such information and (B)
25 consistently with the objectives set forth in this subsection,

- 1 *to avoid unnecessarily duplicative reporting by and minimize*
- 2 *the compliance burden on persons required to report.”.*

Amend the title so as to read: “A bill to amend and extend the Export Administration Act of 1969 to improve the administration of export controls pursuant to such Act, to strengthen the antiboycott provisions of such Act, to amend the Securities Exchange Act of 1934 to enhance the investor disclosure provisions of that Act, and for other purposes.”.

A BILL

To extend the Export Administration Act of
1969, as amended.

By Mr. PROXMIRE, Mr. PACKWOOD, Mr. STEVEN-
SON, Mr. TOWER, and Mr. WILLIAMS

MARCH 4, 1976

Read twice and referred to the Committee on
Banking, Housing and Urban Affairs

MAY 25, 1976

Reported with an amendment, and an amendment to
the title

94TH CONGRESS
1ST SESSION

H. R. 7665

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1975

Mr. MORGAN (by request) (for himself and Mr. BROOMFIELD) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To extend the Export Administration Act of 1969, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Export Administration Act of 1969 (Public Law
4 91-184, 50 U.S.C. App. 2401, et seq.), as amended, is
5 further amended by striking out "September 30, 1976" in
6 section 14, and inserting in lieu thereof "September 30,
7 1979".

I

94TH CONGRESS
2D SESSION

H. R. 15377

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 1, 1976

Mr. MORGAN (for himself, Mr. ZABLOCKI, Mr. FASCELL, Mr. NIX, Mr. FRASER, Mr. ROSENTHAL, Mr. HAMILTON, Mr. YATRON, Mr. BINGHAM, Mr. RYAN, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mrs. MEYNER, Mr. BROOMFIELD, Mr. BURKE of Florida, Mr. WHALEN, Mr. BIESTER, Mr. WINN, Mr. GILMAN, and Mr. GUYER) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To amend the Export Administration Act of 1969.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF EXPORT ADMINISTRATION ACT

SECTION 1. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.) is amended in section 14 by striking out "September 30, 1976" and inserting in lieu thereof "September 30, 1977".

PENALTIES FOR VIOLATIONS

SEC. 2. (a) Section 6 (a) of the Export Administration Act of 1969 is amended—

1 (1) in the first sentence, by striking out "\$10,000"
2 and inserting in lieu thereof "\$25,000"; and

3 (2) in the second sentence, by striking out
4 "\$20,000" and inserting in lieu thereof "\$50,000".

5 (b) Section 6 (b) of such Act is amended by striking
6 out "\$20,000" and inserting in lieu thereof "\$50,000".

7 (c) Section 6 (c) of such Act is amended by striking
8 out "\$1,000" and inserting in lieu thereof "\$10,000".

9 (d) Section 6 (d) of such Act is amended by adding at
10 the end thereof the following new sentences: "Further, the
11 payment of any penalty imposed pursuant to subsection (c)
12 may be deferred or suspended in whole or in part for a time
13 equal to or less than any probation period (which may ex-
14 ceed one year) that may be imposed upon such person. Such
15 deferral or suspension shall not operate as a bar to the collec-
16 tion of the penalty in the event that the conditions of the
17 suspension, deferral, or probation are not fulfilled."

18 AUTHORIZATION OF APPROPRIATIONS

19 SEC. 3. The Export Administration Act of 1969 is
20 amended by inserting after section 12 the following new
21 section 13 and redesignating existing sections 13 and 14
22 as sections 14 and 15, respectively:

23 "AUTHORIZATION OF APPROPRIATIONS

24 "SEC. 13. Notwithstanding any other provision of law,
25 no appropriation shall be made under any law to the Depart-

1 ment of Commerce for expenses to carry out the purposes of
2 this Act for any fiscal year commencing on or after Octo-
3 ber 1, 1977, unless previously and specifically authorized
4 by legislation enacted after the enactment of this section.”.

5 FOREIGN AVAILABILITY

6 SEC. 4. Section 4 (b) of the Export Administration Act
7 of 1969 is amended—

8 (1) by striking out paragraphs (2) through (4)
9 and redesignating section 4 (b) (1) as section 4 (b) ;
10 and

11 (2) by striking out “, regardless” and all that
12 follows thereafter in the third sentence of such section
13 4 (b) and inserting in lieu thereof a period and the fol-
14 lowing: “The President shall not impose export controls
15 for national security purposes on the export from the
16 United States of articles, materials, or supplies, including
17 technical data or other information, which he determines
18 are available without restriction from sources outside the
19 United States in significant quantities and comparable
20 in quality to those produced in the United States, unless
21 the President determines that adequate evidence has
22 been presented to him demonstrating that the absence of
23 such a control would prove detrimental to the national
24 security of the United States. The nature of such evidence
25 shall be included in the semiannual report required by

1 section 10 of this Act. Where in accordance with this
2 subsection, export controls are imposed for national secu-
3 rity purposes notwithstanding foreign availability, the
4 President shall take steps to initiate negotiations with
5 the governments of the appropriate foreign countries for
6 the purpose of eliminating such availability.”.

7 PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

8 SEC. 5. Section 4 (g) of the Export Administration Act
9 of 1969 is amended to read as follows:

10 “(g) (1) It is the intent of Congress that any export
11 license application required under this Act shall be ap-
12 proved or disapproved within 90 days of its receipt. Upon
13 the expiration of the 90-day period beginning on the date
14 of its receipt, any export license application required under
15 this Act which has not been approved or disapproved shall
16 be deemed to be approved and the license shall be issued
17 unless the Secretary of Commerce or other official exercising
18 authority under this Act finds that additional time is re-
19 quired and notifies the applicant in writing of the specific
20 circumstances requiring such additional time and the esti-
21 mated date when the decision will be made.

22 “(2) With respect to any export license application not
23 finally approved or disapproved within 90 days of its receipt
24 as provided in paragraph (1) of this subsection, the appli-

1 cant shall, to the maximum extent consistent with the na-
2 tional security of the United States, be specifically informed
3 in writing of questions raised and negative considerations or
4 recommendations made by any agency or department of the
5 Government with respect to such license application, and shall
6 be accorded an opportunity to respond to such questions, con-
7 siderations, or recommendations in writing prior to final
8 approval or disapproval by the Secretary of Commerce or
9 other official exercising authority under this Act. In making
10 such final approval or disapproval, the Secretary of Com-
11 merce or other official exercising authority under this Act
12 shall take fully into account the applicant's response."

13 AVAILABILITY OF INFORMATION TO CONGRESS

14 SEC. 6. (a) Section 7 (c) of the Export Administration
15 Act of 1969 is amended by adding at the end thereof the
16 following new sentences: "Nothing in this Act shall be con-
17 strued as authorizing the withholding of information from
18 Congress, and any information obtained under this Act,
19 including any report or license application required under
20 section 4 (b) and any information required under section
21 4 (j) (1), shall be made available upon request to any com-
22 mittee of Congress or any subcommittee thereof. No such
23 committee or subcommittee shall disclose any information
24 obtained under this Act which is submitted on a confi-

1 dential basis unless such committee or subcommittee deter-
2 mines that the withholding thereof is contrary to the national
3 interest.”.

4 (b) Section 4 (c) (1) of such Act is amended by insert-
5 ing immediately before the period at the end of the last
6 sentence thereof “and in the last two sentences of section
7 7 (c) of this Act”.

8 **TECHNICAL ADVISORY COMMITTEES**

9 SEC. 7. Section 5 (c) (2) of the Export Administration
10 Act of 1969 is amended by striking out the third sentence
11 and inserting in lieu thereof the following: “The Secretary
12 shall include in each semiannual report required by sec-
13 tion 10 of this Act an accounting of the consultations under-
14 taken pursuant to this paragraph, the use made of the ad-
15 vice rendered by the technical advisory committees pursuant
16 to this paragraph, and the contributions of the technical
17 advisory committees to carrying out the policies of this
18 Act.”.

19 **SIMPLIFICATION OF EXPORT REGULATIONS**

20 SEC. 8. Section 7 of the Export Administration Act of
21 1969 is amended by adding at the end thereof the following
22 new subsection (e) :

23 “(e) The Secretary of Commerce, in consultation with
24 appropriate United States Government departments and
25 agencies and with appropriate technical advisory committees

1 established under section 5 (c), shall review the rules and
2 regulations issued under this Act in order to determine how
3 compliance with the provisions of this Act can be facilitated
4 by simplifying such rules and regulations or by any other
5 means. Not later than six months after the enactment of this
6 subsection, the Secretary of Commerce shall report to Con-
7 gress on the actions taken on the basis of such review to
8 simplify such rules and regulations. Such report may be
9 included in the semiannual report required by section 10 of
10 this Act.”.

11 CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

12 SEC. 9. (a) Section 4 (h) (1) of the Export Adminis-
13 tration Act of 1969 is amended—

14 (1) by striking out “to a controlled country” in
15 the first sentence;

16 (2) by striking out “significantly increase the mili-
17 tary capability of such country” in the first sentence and
18 inserting in lieu thereof “make a significant contribution
19 to the military potential of any other nation or nations
20 which would prove detrimental to the national security
21 of the United States”;

22 (3) by striking out “such country” in the second
23 sentence and inserting in lieu thereof “nation to which
24 exports are restricted for national security purposes”;
25 and

1 (4) by striking out "significantly increase the mili-
2 tary capability of such country" in the second sentence
3 and inserting in lieu thereof "make a significant contri-
4 bution to the military potential of any other nation or
5 nations which would prove detrimental to the national
6 security of the United States".

7 (b) The second sentence of section 4 (h) (2) of such
8 Act is amended to read as follows: "The appropriate export
9 control office or agency to whom a request which falls
10 within such types and categories is made shall notify the
11 Secretary of Defense of such request, and such office may
12 not issue any license or other authority pursuant to such
13 request prior to the expiration of the period within which
14 the President may disapprove such export."

15 (c) Section 4 (h) (2) (A) of such Act is amended to
16 read as follows:

17 "(A) recommend to the President that he dis-
18 approve a request for the export of any goods or tech-
19 nology which he determines will make a significant con-
20 tribution to the military potential of any nation or
21 nations which would prove detrimental to the national
22 security of the United States;"

23 (d) Section 4 (h) (2) (C) of such Act is amended by
24 striking out "export of such goods or technology" and in-
25 serting in lieu thereof "request".

1 (e) Section 4 (h) (2) of such Act is amended by strik-
2 ing out “the export of such goods or technology to such
3 country” in the last sentence and inserting in lieu thereof
4 “such export”.

5 (f) Section 4 (h) (4) of such Act is amended—

6 (1) by inserting “and” at the end of subparagraph
7 (A) ; and

8 (2) by striking out the semicolon at the end of
9 subparagraph (B) and all that follows thereafter
10 through “1961” at the end of subparagraph (C).

11 (g) Section 6 (b) of such Act is amended by striking
12 out “Communist-dominated nation” and inserting in lieu
13 thereof “country to which exports are restricted for national
14 security or foreign policy purposes”.

15 REPEAL OF TITLE II OF THE MUTUAL DEFENSE

16 ASSISTANCE CONTROL ACT

17 SEC. 10. (a) Title II of the Mutual Defense Assistance
18 Control Act of 1951 (22 U.S.C. 1612–1612b) is repealed.

19 (b) Section 301 of such Act (22 U.S.C. 1613) is
20 amended by striking out “and title II”.

21 EXPORTS OF TECHNICAL INFORMATION

22 SEC. 11. Section 4 of the Export Administration Act of
23 1969 is amended by adding at the end thereof the following
24 new subsection (j) :

1 “(j) (1) Any person (including any college, university,
2 or other educational institution) who enters into any agree-
3 ment for, or which may result in, the transfer from the
4 United States of technical data or other information to any
5 nation to which exports are restricted for national security
6 or foreign policy purposes shall furnish to the Secretary of
7 Commerce such information with respect to such agreement
8 as the Secretary shall by regulation require in order to enable
9 him to monitor the effects of such transfers on the national
10 security and foreign policy of the United States.

11 “(2) The Secretary of Commerce shall conduct a study
12 of the problem of the export, by publications or any other
13 means of public dissemination, of technical data or other
14 information from the United States, the export of which
15 might prove detrimental to the national security or foreign
16 policy of the United States. Not later than 6 months after
17 the enactment of this subsection, the Secretary shall report
18 to the Congress his assessment of the impact of the export
19 of such technical data or other information by such means
20 on the national security and foreign policy of the United
21 States and his recommendations for monitoring such exports
22 without impairing freedom of speech, freedom of press, or the
23 freedom of scientific exchange. Such report may be included
24 in the semiannual report required by section 10 of this Act.”.

SEMIANNUAL REPORTS

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SEC. 12. (a) Section 10 of the Export Administration Act of 1969 is amended by adding at the end the following new subsection (c) :

“(c) Each semiannual report shall include an accounting of—

“(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4 (a) of this Act;

“(2) any changes in the exercise of the authorities of section 4 (b) of this Act;

“(3) any delegations of authority under section 4 (e) of this Act;

“(4) the disposition of export license applications pursuant to sections 4 (g) and 4 (h) of this Act;

“(5) the effects on the national security and foreign policy of the United States of transfers from the United States of technical data or other information which are reported to the Secretary of Commerce pursuant to section 4 (j) of this Act;

“(6) consultations undertaken with technical advisory committees pursuant to section 5 (c) of this Act; and

3 (b) (1) The section heading of such section 10 is
4 amended by striking out “QUARTERLY”.

5 (2) Subsection (b) of such section is amended—

6 (A) by striking out “quarterly” each time it ap-
7 pears; and

8 (B) by striking out “second” in the first sentence
9 of paragraph (1).

SEC. 13. The Export Administration Act of 1969, as amended by section 3 of this Act, is further amended by inserting after section 10 the following new section 11 and redesignating existing sections 11 through 15 as sections 12 through 16, respectively:

17 “SEC. 11. Not later than 12 months after the enactment
18 of this section, the President shall submit to the Congress a
19 special report on multilateral export controls in which the
20 United States participates pursuant to this Act and pursuant
21 to the Mutual Defense Assistance Control Act of 1951. The
22 purpose of such special report shall be to assess the effective-
23 ness of such multilateral export controls and to formulate
24 specific proposals for increasing the effectiveness of such
25 controls. That special report shall include—

1 “(1) the current list of commodities controlled for
2 export by agreement of the group known as the Coordinating
3 Committee of the Consultative Group (hereafter
4 in this section referred to as the ‘Committee’) and an
5 analysis of the process of reviewing such list and of the
6 changes which result from such review;

7 “(2) data on and analysis of requests for excep-
8 tions to such list;

9 “(3) a description and an analysis of the process
10 by which decisions are made by the Committee on
11 whether or not to grant such requests;

12 “(4) an analysis of the uniformity of interpreta-
13 tion and enforcement by the participating countries
14 of the export controls agreed to by the Committee
15 (including controls over the re-export of such commodi-
16 ties from countries not participating in the Committee);
17 and information on each case where such participating
18 countries have acted contrary to the United States in-
19 terpretation of the policy of the Committee, including
20 United States representations to such countries and the
21 response of such countries;

22 “(5) an analysis of the problem of exports of ad-
23 vanced technology by countries not participating in the
24 Committee, including such exports by subsidiaries or
25 affiliates of United States businesses in such countries;

“(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

“(7) detailed recommendations for improving, through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls.”.

FOREIGN BOYCOTTS

SEC. 14. (a) Section 3(5) of the Export Administration Act of 1969 is amended in subparagraph (B)—

(1) by striking out “encourage and request” and inserting in lieu thereof “require”; and

(2) by striking out “the furnishing of information or the signing of agreements” and inserting in lieu thereof “furnishing information or entering into or implementing agreements”.

1 (b) Section 4 of such Act is amended—

2 (1) by striking out the next to the last sentence of
3 subsection (b), as so redesignated by section 4 of this
4 Act; and

5 (2) by adding the following new subsection (k)
6 immediately after subsection (j), as added by section 11
7 of this Act:

8 “(k) (1) (A) Rules and regulations prescribed under
9 subsection (b) shall implement the provisions of section
10 3 (5) of this Act and shall require that any United States
11 person receiving a request for furnishing information or enter-
12 ing into agreement as specified in that section must report
13 this fact to the Secretary of Commerce for such action as the
14 Secretary may deem appropriate to carry out the policy
15 of that section.

16 “(B) Any report filed under subparagraph (A) after
17 the enactment of this subsection shall be made available
18 promptly for public inspection and copying. The Secretary
19 of Commerce shall transmit copies of such reports to the
20 Secretary of State for such action as the Secretary of State,
21 in consultation with the Secretary of Commerce, may deem
22 appropriate for carrying out the policy set forth in section
23 3 (5). The provisions of section 7 (c) shall not apply to re-
24 ports filed under subparagraph (A) of this paragraph.

25 “(2) (A) In furtherance of the policy set forth in sec-

1 tions 3 (5) (A) and (B), no United States person shall
2 take any action with intent to comply with or to further or
3 support any trade boycott fostered or imposed by any for-
4 eign country against a country which is friendly to the
5 United States and which is not itself the object of any form of
6 embargo by the United States. The mere absence of a busi-
7 ness relationship with a boycotted country does not indicate
8 the existence of the intent required by the preceding sentence.

9 “(B) For the purpose of enforcing the prohibition con-
10 tained in subparagraph (A) of this paragraph, the Secretary
11 of Commerce shall issue rules and regulations prohibiting
12 any United States person from taking any action with the
13 required intent, including the following actions:

14 “(i) Discriminating against any United States per-
15 son, including any officer, employee, agent, director, or
16 stockholder or other owner of any United States person,
17 on the basis of race, color, religion, sex, nationality, or
18 national origin.

19 “(ii) Boycotting or refraining from doing business
20 with any United States person, with the boycotted coun-
21 try, with any business concern in or of the boycotted
22 country with any national or resident of the boycotted
23 country, or with any business concern or other person
24 which has done, does, or proposes to do business with
25 the boycotted country, with any business concern in or of

1 the boycotted country, or any national or resident of
2 the boycotted country.

3 “(iii) Furnishing information with respect to the
4 race, color, religion, sex, nationality, or national origin
5 of any past, present, or proposed officer, employee, agent,
6 director, or stockholder or other owner of any United
7 States person.

8 “(iv) Furnishing information about any past, pres-
9 ent, or proposed business relationship, including a rela-
10 tionship by way of sale, purchase, legal or commercial
11 representation, shipping or other transport, insurance,
12 investment, or supply, with any United States person,
13 with the boycotted country, with any business concern
14 in or of the boycotted country, with any national or
15 resident of the boycotted country, or with any business
16 concern or other person which has done, does, or pro-
17 poses to do business with the boycotted country, with
18 any business concern in or of the boycotted country, or
19 any national or resident of the boycotted country.”.

20 (c) (1) Section 6 of such Act is amended by redesign-
21 ating subsection (g) as subsection (h) and by inserting
22 immediately after subsection (f) the following new subsec-
23 tion (g) :
24 “(g) Any United States person aggrieved by action
25 taken as a result of a violation of section 4 (k) (2) of this

1 Act may institute a civil action in an appropriate United
2 States district court, without regard to the amount in con-
3 troversy, and may recover threefold actual damages, reason-
4 able attorney's fees, and other litigation costs reasonably
5 incurred, and obtain other appropriate relief.”.

6 (2) Section 6 (h) of such Act, as so redesignated by
7 paragraph (1) of this subsection, is amended by striking out
8 “or (f)” and inserting in lieu thereof “(f), or (g)”.

9 (d) Section 12 of such Act, as so redesignated by section
10 13 of this Act, is amended by adding at the end thereof the
11 following: “The term ‘United States person’ includes any
12 United States resident or national, any domestic business con-
13 cern (including any domestic subsidiary or affiliate of any
14 foreign business concern), and any foreign subsidiary or
15 affiliate of any domestic business concern.”.

16 CERTAIN PETROLEUM EXPORTS

17 SEC. 15. Section 4 of the Export Administration Act of
18 1969, as amended by sections 11 and 14 of this Act, is
19 further amended by adding at the end thereof the following
20 new subsection (1) :

21 “(1) Petroleum products refined in United States For-
22 eign-Trade Zones from foreign crude oil shall be excluded
23 from any quantitative restrictions imposed pursuant to sec-
24 tion 3 (2) (A) of this Act, except that, if the Secretary of
25 Commerce finds that a product is in short supply, the Secre-

1 tary of Commerce is authorized to issue such rules and reg-
2 ulations as may be necessary to limit exports.”.

3 EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES
4 FROM CERTAIN EXPORT LIMITATIONS

5 SEC. 16. Section 4 (f) of the Export Administration Act
6 of 1969 is amended—

7 (1) by redesignating such section as section
8 4 (f) (1) ; and

9 (2) by adding at the end thereof the following new
10 paragraph:

11 “(2) Upon approval of the Secretary of Commerce, in
12 consultation with the Secretary of Agriculture, agricultural
13 commodities purchased by or for use in a foreign country
14 may remain in the United States for export at a later date
15 free from any quantitative limitations on export which may
16 be imposed pursuant to section 3 (2) (A) of this Act sub-
17 sequent to such approval. The Secretary of Commerce may
18 not grant approval hereunder unless he receives adequate
19 assurance and, in conjunction with the Secretary of Agri-
20 culture, so finds that such commodities will eventually
21 be exported, that neither the sale nor export thereof will
22 result in an excessive drain of scarce materials and have
23 a serious domestic inflationary impact, that storage of such
24 commodities in the United States will not unduly limit the
25 space available for storage of domestically owned commodi-

ties, and that the purpose of such storage is to establish a
reserve of such commodities for later use, not including resale
to or use by another country. The Secretary of Commerce
is authorized to issue such rules and regulations as may be
necessary to implement this paragraph.”

NUCLEAR POWERPLANTS

SEC. 17. None of the funds authorized by the Foreign
Assistance Act of 1961 may be used to finance the construc-
tion of, the operation or maintenance of, or the supply of
fuel for, any nuclear powerplant under an agreement for
cooperation between the United States and any other
country.

94TH CONGRESS
2D SESSION

H. R. 15377

A BILL

To amend the Export Administration Act of
1969.

By Mr. MORGAN, Mr. ZABLOCKI, Mr. FASCELL,
Mr. NIX, Mr. FRASER, Mr. ROSENTHAL, Mr.
HAMILTON, Mr. YATRON, Mr. BINGHAM, Mr.
RYAN, Mrs. COLLINS of Illinois, Mr. SOLARZ,
Mrs. MEYNER, Mr. BROOMFIELD, Mr. BURKE
of Florida, Mr. WHALEN, Mr. BIESTER, Mr.
WINN, Mr. GLIMAN, and Mr. GUYER

SEPTEMBER 1, 1976

Referred to the Committee on International Relations

H. R. 15377

[Report No. 94-1469]

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 1, 1976

Mr. MORGAN (for himself, Mr. ZABLOCKI, Mr. FASCELL, Mr. NIX, Mr. FRASER, Mr. ROSENTHAL, Mr. HAMILTON, Mr. YATRON, Mr. BINGHAM, Mr. RYAN, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mrs. MEYNER, Mr. BROOMFIELD, Mr. BURKE of Florida, Mr. WHALEN, Mr. BIESTER, Mr. WINN, Mr. GILMAN, and Mr. GUYER) introduced the following bill; which was referred to the Committee on International Relations

SEPTEMBER 2, 1976

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Insert the part printed in italic]

A BILL

To amend the Export Administration Act of 1969.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 EXTENSION OF EXPORT ADMINISTRATION ACT

4 SECTION 1. The Export Administration Act of 1969
5 (50 U.S.C. App. 2401 et seq.) is amended in section 14
6 by striking out "September 30, 1976" and inserting in lieu
7 thereof "September 30, 1977".

8 PENALTIES FOR VIOLATIONS

9 SEC. 2. (a) Section 6 (a) of the Export Administration
10 Act of 1969 is amended—

1 (1) in the first sentence, by striking out "\$10,000"
2 and inserting in lieu thereof "\$25,000"; and

3 (2) in the second sentence, by striking out
4 "\$20,000" and inserting in lieu thereof "\$50,000".

5 (b) Section 6 (b) of such Act is amended by striking
6 out "\$20,000" and inserting in lieu thereof "\$50,000".

7 (c) Section 6 (c) of such Act is amended by striking
8 out "\$1,000" and inserting in lieu thereof "\$10,000".

9 (d) Section 6 (d) of such Act is amended by adding at
10 the end thereof the following new sentences: "Further, the
11 payment of any penalty imposed pursuant to subsection (c)
12 may be deferred or suspended in whole or in part for a time
13 equal to or less than any probation period (which may ex-
14 ceed one year) that may be imposed upon such person. Such
15 deferral or suspension shall not operate as a bar to the collec-
16 tion of the penalty in the event that the conditions of the
17 suspension, deferral, or probation are not fulfilled."

18 AUTHORIZATION OF APPROPRIATIONS

19 SEC. 3. The Export Administration Act of 1969 is
20 amended by inserting after section 12 the following new
21 section 13 and redesignating existing sections 13 and 14
22 as sections 14 and 15, respectively:

23 "AUTHORIZATION OF APPROPRIATIONS

24 "SEC. 13. Notwithstanding any other provision of law,
25 no appropriation shall be made under any law to the Depart-

1 ment of Commerce for expenses to carry out the purposes of
2 this Act for any fiscal year commencing on or after Octo-
3 ber 1, 1977, unless previously and specifically authorized
4 by legislation enacted after the enactment of this section.”.

5 FOREIGN AVAILABILITY

6 SEC. 4. Section 4 (b) of the Export Administration Act
7 of 1969 is amended—

8 (1) by striking out paragraphs (2) through (4)
9 and redesignating section 4 (b) (1) as section 4 (b) ;
10 and

11 (2) by striking out “, regardless” and all that
12 follows thereafter in the third sentence of such section
13 4 (b) and inserting in lieu thereof a period and the fol-
14 lowing: “The President shall not impose export controls
15 for national security purposes on the export from the
16 United States of articles, materials, or supplies, including
17 technical data or other information, which he determines
18 are available without restriction from sources outside the
19 United States in significant quantities and comparable
20 in quality to those produced in the United States, unless
21 the President determines that adequate evidence has
22 been presented to him demonstrating that the absence of
23 such a control would prove detrimental to the national
24 security of the United States. The nature of such evidence
25 shall be included in the semiannual report required by

1 section 10 of this Act. Where in accordance with this
2 subsection, export controls are imposed for national secu-
3 rity purposes notwithstanding foreign availability, the
4 President shall take steps to initiate negotiations with
5 the governments of the appropriate foreign countries for
6 the purpose of eliminating such availability.”.

7 PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

8 SEC. 5. Section 4 (g) of the Export Administration Act
9 of 1969 is amended to read as follows:

10 “(g) (1) It is the intent of Congress that any export
11 license application required under this Act shall be ap-
12 proved or disapproved within 90 days of its receipt. Upon
13 the expiration of the 90-day period beginning on the date
14 of its receipt, any export license application required under
15 this Act which has not been approved or disapproved shall
16 be deemed to be approved and the license shall be issued
17 unless the Secretary of Commerce or other official exercising
18 authority under this Act finds that additional time is re-
19 quired and notifies the applicant in writing of the specific
20 circumstances requiring such additional time and the esti-
21 mated date when the decision will be made.

22 “(2) With respect to any export license application not
23 finally approved or disapproved within 90 days of its receipt
24 as provided in paragraph (1) of this subsection, the appli-

1 cant shall, to the maximum extent consistent with the na-
2 tional security of the United States, be specifically informed
3 in writing of questions raised and negative considerations or
4 recommendations made by any agency or department of the
5 Government with respect to such license application, and shall
6 be accorded an opportunity to respond to such questions, con-
7 siderations, or recommendations in writing prior to final
8 approval or disapproval by the Secretary of Commerce or
9 other official exercising authority under this Act. In making
10 such final approval or disapproval, the Secretary of Com-
11 merce or other official exercising authority under this Act
12 shall take fully into account the applicant's response."

13 **AVAILABILITY OF INFORMATION TO CONGRESS**

14 **SEC. 6. (a)** Section 7 (c) of the Export Administration
15 Act of 1969 is amended by adding at the end thereof the
16 following new sentences: "Nothing in this Act shall be con-
17 strued as authorizing the withholding of information from
18 Congress, and any information obtained under this Act,
19 including any report or license application required under
20 section 4 (b) and any information required under section
21 4 (j) (1), shall be made available upon request to any com-
22 mittee of Congress or any subcommittee thereof. No such
23 committee or subcommittee shall disclose any information
24 obtained under this Act which is submitted on a confi-

1 dential basis unless such committee or subcommittee deter-
2 mines that the withholding thereof is contrary to the national
3 interest.”.

4 (b) Section 4 (c) (1) of such Act is amended by insert-
5 ing immediately before the period at the end of the last
6 sentence thereof “and in the last two sentences of section
7 7 (c) of this Act”.

8 TECHNICAL ADVISORY COMMITTEES

9 SEC. 7. Section 5 (c) (2) of the Export Administration
10 Act of 1969 is amended by striking out the third sentence
11 and inserting in lieu thereof the following: “The Secretary
12 shall include in each semiannual report required by sec-
13 tion 10 of this Act an accounting of the consultations under-
14 taken pursuant to this paragraph, the use made of the ad-
15 vice rendered by the technical advisory committees pursuant
16 to this paragraph, and the contributions of the technical
17 advisory committees to carrying out the policies of this
18 Act.”.

19 SIMPLIFICATION OF EXPORT REGULATIONS

20 SEC. 8. Section 7 of the Export Administration Act of
21 1969 is amended by adding at the end thereof the following
22 new subsection (e):

23 “(e) The Secretary of Commerce, in consultation with
24 appropriate United States Government departments and
25 agencies and with appropriate technical advisory committees

1 established under section 5 (c), shall review the rules and
 2 regulations issued under this Act in order to determine how
 3 compliance with the provisions of this Act can be facilitated
 4 by simplifying such rules and regulations or by any other
 5 means. Not later than six months after the enactment of this
 6 subsection, the Secretary of Commerce shall report to Con-
 7 gress on the actions taken on the basis of such review to
 8 simplify such rules and regulations. Such report may be
 9 included in the semiannual report required by section 10 of
 10 this Act.”

11 CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES

12 SEC. 9. (a) Section 4 (h) (1) of the Export Adminis-
 13 tration Act of 1969 is amended—

14 (1) by striking out “to a controlled country” in
 15 the first sentence;

16 (2) by striking out “significantly increase the mili-
 17 tary capability of such country” in the first sentence and
 18 inserting in lieu thereof “make a significant contribution
 19 to the military potential of any other nation or nations
 20 which would prove detrimental to the national security
 21 of the United States”;

22 (3) by striking out “such country” in the second
 23 sentence and inserting in lieu thereof “nation to which
 24 exports are restricted for national security purposes”;
 25 and

1 (4) by striking out "significantly increase the mili-
2 tary capability of such country" in the second sentence
3 and inserting in lieu thereof "make a significant contri-
4 bution to the military potential of any other nation or
5 nations which would prove detrimental to the national
6 security of the United States".

7 (b) The second sentence of section 4 (h) (2) of such
8 Act is amended to read as follows: "The appropriate export
9 control office or agency to whom a request which falls
10 within such types and categories is made shall notify the
11 Secretary of Defense of such request, and such office may
12 not issue any license or other authority pursuant to such
13 request prior to the expiration of the period within which
14 the President may disapprove such export."

15 (c) Section 4 (h) (2) (A) of such Act is amended to
16 read as follows:

17 "(A) recommend to the President that he dis-
18 approve a request for the export of any goods or tech-
19 nology which he determines will make a significant con-
20 tribution to the military potential of any nation or
21 nations which would prove detrimental to the national
22 security of the United States;"

23 (d) Section 4 (h) (2) (C) of such Act is amended by
24 striking out "export of such goods or technology" and in-
25 serting in lieu thereof "request".

1 (e) Section 4 (h) (2) of such Act is amended by strik-
 2 ing out “the export of such goods or technology to such
 3 country” in the last sentence and inserting in lieu thereof
 4 “such export”.

5 (f) Section 4 (h) (4) of such Act is amended—

6 (1) by inserting “and” at the end of subparagraph
 7 (A) ; and

8 (2) by striking out the semicolon at the end of
 9 subparagraph (B) and all that follows thereafter
 10 through “1961” at the end of subparagraph (C).

11 (g) Section 6 (b) of such Act is amended by striking
 12 out “Communist-dominated nation” and inserting in lieu
 13 thereof “country to which exports are restricted for national
 14 security or foreign policy purposes”.

15 REPEAL OF TITLE II OF THE MUTUAL DEFENSE

16 ASSISTANCE CONTROL ACT

17 SEC. 10. (a) Title II of the Mutual Defense Assistance
 18 Control Act of 1951 (22 U.S.C. 1612–1612b) is repealed.

19 (b) Section 301 of such Act (22 U.S.C. 1613) is
 20 amended by striking out “and title II”.

21 EXPORTS OF TECHNICAL INFORMATION

22 SEC. 11. Section 4 of the Export Administration Act of
 23 1969 is amended by adding at the end thereof the following
 24 new subsection (j) :

1 “(j) (1) Any person (including any college, university,
2 or other educational institution) who enters into any agree-
3 ment for, or which may result in, the transfer from the
4 United States of technical data or other information to any
5 nation to which exports are restricted for national security
6 or foreign policy purposes shall furnish to the Secretary of
7 Commerce such information with respect to such agreement
8 as the Secretary shall by regulation require in order to enable
9 him to monitor the effects of such transfers on the national
10 security and foreign policy of the United States.

11 “(2) The Secretary of Commerce shall conduct a study
12 of the problem of the export, by publications or any other
13 means of public dissemination, of technical data or other
14 information from the United States, the export of which
15 might prove detrimental to the national security or foreign
16 policy of the United States. Not later than 6 months after
17 the enactment of this subsection, the Secretary shall report
18 to the Congress his assessment of the impact of the export
19 of such technical data or other information by such means
20 on the national security and foreign policy of the United
21 States and his recommendations for monitoring such exports
22 without impairing freedom of speech, freedom of press, or the
23 freedom of scientific exchange. Such report may be included
24 in the semiannual report required by section 10 of this Act.”.

1 SEMIANNUAL REPORTS

2 SEC. 12. (a) Section 10 of the Export Administration
3 Act of 1969 is amended by adding at the end the following
4 new subsection (c) :

5 “(c) Each semiannual report shall include an account-
6 ing of—

7 “(1) any organizational and procedural changes
8 instituted, any reviews undertaken, and any means used
9 to keep the business sector of the Nation informed, pur-
10 suant to section 4 (a) of this Act;

11 “(2) any changes in the exercise of the authorities
12 of section 4 (b) of this Act;

13 “(3) any delegations of authority under section
14 4 (e) of this Act;

15 “(4) the disposition of export license applications
16 pursuant to sections 4 (g) and 4 (h) of this Act;

17 “(5) the effects on the national security and for-
18 eign policy of the United States of transfers from the
19 United States of technical data or other information
20 which are reported to the Secretary of Commerce pur-
21 suant to section 4 (j) of this Act;

22 “(6) consultations undertaken with technical ad-
23 visory committees pursuant to section 5 (c) of this Act;
24 and

1 “(7) violations of the provisions of this Act and
2 penalties imposed pursuant to section 6 of this Act.”.

3 (b) (1) The section heading of such section 10 is
4 amended by striking out “QUARTERLY”.

5 (2) Subsection (b) of such section is amended—

6 (Λ) by striking out “quarterly” each time it ap-
7 pears; and

8 (B) by striking out “second” in the first sentence
9 of paragraph (1).

10 SPECIAL REPORT

11 SEC. 13. The Export Administration Act of 1969, as
12 amended by section 3 of this Act, is further amended by
13 inserting after section 10 the following new section 11 and
14 redesignating existing sections 11 through 15 as sections
15 12 through 16, respectively:

16 "SPECIAL REPORT

17 “SEC. 11. Not later than 12 months after the enactment
18 of this section, the President shall submit to the Congress a
19 special report on multilateral export controls in which the
20 United States participates pursuant to this Act and pursuant
21 to the Mutual Defense Assistance Control Act of 1951. The
22 purpose of such special report shall be to assess the effective-
23 ness of such multilateral export controls and to formulate
24 specific proposals for increasing the effectiveness of such
25 controls. That special report shall include—

1 “(1) the current list of commodities controlled for
2 export by agreement of the group known as the Coordinating Committee of the Consultative Group (hereafter
3 in this section referred to as the ‘Committee’) and an
4 analysis of the process of reviewing such list and of the
5 changes which result from such review;
6

7 “(2) data on and analysis of requests for excep-
8 tions to such list;

9 “(3) a description and an analysis of the process
10 by which decisions are made by the Committee on
11 whether or not to grant such requests;

12 “(4) an analysis of the uniformity of interpreta-
13 tion and enforcement by the participating countries
14 of the export controls agreed to by the Committee
15 (including controls over the re-export of such commodi-
16 ties from countries not participating in the Committee),
17 and information on each case where such participating
18 countries have acted contrary to the United States in-
19 terpretation of the policy of the Committee, including
20 United States representations to such countries and the
21 response of such countries;

22 “(5) an anlysis of the problem of exports of ad-
23 vanced technology by countries not participating in the
24 Committee, including such exports by subsidiaries or
25 affiliates of United States businesses in such countries;

1 “(6) an analysis of the effectiveness of any pro-
2 cedures employed, in cases in which an exception for
3 a listed commodity is granted by the Committee, to de-
4 termine whether there has been compliance with any
5 conditions on the use of the excepted commodity which
6 were a basis for the exception; and

7 “(7) detailed recommendations for improving,
8 through formalization or other means, the effectiveness
9 of multilateral export controls, including specific recom-
10 mendations for the development of more precise criteria
11 and procedures for collective export decisions and for the
12 development of more detailed and formal enforcement
13 mechanisms to assure more uniform interpretation of and
14 compliance with such criteria, procedures, and decisions
15 by all countries participating in such multilateral export
16 controls.”.

17 FOREIGN BOYCOTTS

18 SEC. 14. (a) Section 3(5) of the Export Adminis-
19 tration Act of 1969 is amended in subparagraph (B)—

20 (1) by striking out “encourage and request” and
21 inserting in lieu thereof “require”; and

(2) by striking out "the furnishing of information or the signing of agreements" and inserting in lieu thereof "furnishing information or entering into or implementing agreements".

1 (b) Section 4 of such Act is amended—

2 (1) by striking out the next to the last sentence of
3 subsection (b), as so redesignated by section 4 of this
4 Act; and

5 (2) by adding the following new subsection (k)
6 immediately after subsection (j), as added by section 11
7 of this Act:

8 “(k) (1) (A) Rules and regulations prescribed under
9 subsection (b) shall implement the provisions of section
10 3 (5) of this Act and shall require that any United States
11 person receiving a request for furnishing information or enter-
12 ing into agreement as specified in that section must report
13 this fact to the Secretary of Commerce for such action as the
14 Secretary may deem appropriate to carry out the policy
15 of that section.

16 “(B) Any report filed under subparagraph (A) after
17 the enactment of this subsection shall be made available
18 promptly for public inspection and copying. The Secretary
19 of Commerce shall transmit copies of such reports to the
20 Secretary of State for such action as the Secretary of State,
21 in consultation with the Secretary of Commerce, may deem
22 appropriate for carrying out the policy set forth in section
23 3 (5). The provisions of section 7 (c) shall not apply to re-
24 ports filed under subparagraph (A) of this paragraph.

25 “(2) (A) In furtherance of the policy set forth in sec-

1 tions 3 (5) (A) and (B), no United States person shall
2 take any action with intent to comply with or to further or
3 support any trade boycott fostered or imposed by any for-
4 eign country against a country which is friendly to the
5 United States and which is not itself the object of any form of
6 embargo by the United States. The mere absence of a busi-
7 ness relationship with a boycotted country does not indicate
8 the existence of the intent required by the preceding sentence.

9 “(B) For the purpose of enforcing the prohibition con-
10 tained in subparagraph (A) of this paragraph, the Secretary
11 of Commerce shall issue rules and regulations prohibiting
12 any United States person from taking any action with the
13 required intent, including the following actions:

14 “(i) Discriminating against any United States per-
15 son, including any officer, employee, agent, director, or
16 stockholder or other owner of any United States person,
17 on the basis of race, color, religion, sex, nationality, or
18 national origin.

19 “(ii) Boycotting or refraining from doing business
20 with any United States person, with the boycotted coun-
21 try, with any business concern in or of the boycotted
22 country with any national or resident of the boycotted
23 country, or with any business concern or other person
24 which has done, does, or proposes to do business with
25 the boycotted country, with any business concern in or of

1 the boycotted country, or any national or resident of
2 the boycotted country.

3 “(iii) Furnishing information with respect to the
4 race, color, religion, sex, nationality, or national origin
5 of any past, present, or proposed officer, employee, agent,
6 director, or stockholder or other owner of any United
7 States person.

8 “(iv) Furnishing information about any past, pres-
9 ent, or proposed business relationship, including a rela-
10 tionship by way of sale, purchase, legal or commercial
11 representation, shipping or other transport, insurance,
12 investment, or supply, with any United States person,
13 with the boycotted country, with any business concern
14 in or of the boycotted country, with any national or
15 resident of the boycotted country, or with any business
16 concern or other person which has done, does, or pro-
17 poses to do business with the boycotted country, with
18 any business concern in or of the boycotted country, or
19 any national or resident of the boycotted country.”.

20 (c) (1) Section 6 of such Act is amended by redesignig-
21 nating subsection (g) as subsection (h) and by inserting
22 immediately after subsection (f) the following new subsec-
23 tion (g) :

24 “(g) Any United States person aggrieved by action
25 taken as a result of a violation of section 4(k) (2) of this

1 Act may institute a civil action in an appropriate United
 2 States district court, without regard to the amount in con-
 3 troversy, and may recover threefold actual damages, reason-
 4 able attorney's fees, and other litigation costs reasonably
 5 incurred, and obtain other appropriate relief.”.

6 (2) Section 6(h) of such Act, as so redesignated by
 7 paragraph (1) of this subsection, is amended by striking out
 8 “or (f)” and inserting in lieu thereof “(f); or (g)”.

9 (d) Section 12 of such Act, as so redesignated by section
 10 13 of this Act, is amended by adding at the end thereof the
 11 following: “The term ‘United States person’ includes any
 12 United States resident or national, any domestic business con-
 13 cern (including any domestic subsidiary or affiliate of any
 14 foreign business concern), and any foreign subsidiary or
 15 affiliate of any domestic business concern.”.

16 CERTAIN PETROLEUM EXPORTS

17 SEC. 15. Section 4 of the Export Administration Act of
 18 1969, as amended by sections 11 and 14 of this Act, is
 19 further amended by adding at the end thereof the following
 20 new subsection (1):

21 “(1) Petroleum products refined in United States For-
 22 eign-Trade Zones from foreign crude oil shall be excluded
 23 from any quantitative restrictions imposed pursuant to sec-
 24 tion 3 (2) (A) of this Act, except that, if the Secretary of
 25 Commerce finds that a product is in short supply, the Secre-

1 tary of Commerce is authorized to issue such rules and reg-
2 ulations as may be necessary to limit exports.”.

3 EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES
4 FROM CERTAIN EXPORT LIMITATIONS

5 SEC. 16. Section 4 (f) of the Export Administration Act
6 of 1969 is amended—

7 (1) by redesignating such section as section
8 4 (f) (1) ; and

9 (2) by adding at the end thereof the following new
10 paragraph:

11 “(2) Upon approval of the Secretary of Commerce, in
12 consultation with the Secretary of Agriculture, agricultural
13 commodities purchased by or for use in a foreign country
14 may remain in the United States for export at a later date
15 free from any quantitative limitations on export which may
16 be imposed pursuant to section 3 (2) (A) of this Act sub-
17 sequent to such approval. The Secretary of Commerce may
18 not grant approval hereunder unless he receives adequate
19 assurance and, in conjunction with the Secretary of Agri-
20 culture, so finds that such commodities will eventually
21 be exported, that neither the sale nor export thereof will
22 result in an excessive drain of scarce materials and have
23 a serious domestic inflationary impact, that storage of such
24 commodities in the United States will not unduly limit the
25 space available for storage of domestically owned commodi-

1 ties, and that the purpose of such storage is to establish a
2 reserve of such commodities for later use, not including resale
3 to or use by another country. The Secretary of Commerce
4 is authorized to issue such rules and regulations as may be
5 necessary to implement this paragraph.”.

6 NUCLEAR POWERPLANTS

7 SEC. 17. None of the funds authorized by the Foreign
8 Assistance Act of 1961 may be used to finance the construc-
9 tion of, the operation or maintenance of, or the supply of
10 fuel for, any nuclear powerplant under an agreement for
11 cooperation between the United States and any other
12 country.

13 NUCLEAR EXPORTS

14 SEC. 18. *The Export Administration Act of 1969 is*
15 *amended by adding at the end thereof the following new*
16 *section:*

17 “NUCLEAR EXPORTS

18 “SEC. 17. (a)(1) *The Congress finds that the export*
19 *by the United States of nuclear material, equipment, and*
20 *devices, if not properly regulated, could allow countries to*
21 *come unacceptably close to a nuclear weapon capability,*
22 *thereby adversely affecting international stability, the foreign*
23 *policy objectives of the United States, and undermining the*
24 *principle of nuclear nonproliferation agreed to by the United*

1 *States as a signatory to the Treaty on the Non-Proliferation*
2 *of Nuclear Weapons.*

3 “(2) *The Congress finds that nuclear export activities*
4 *which enable countries to possess strategically significant*
5 *quantities of unirradiated, readily fissionable material are*
6 *inherently unsafe.*

7 “(3) *It is, therefore, the purpose of this section to*
8 *implement the policies stated in paragraphs (1) and (2)*
9 *of section 3 of this Act by regulating the export of nuclear*
10 *material, equipment, and devices which could prove detri-*
11 *mental to United States national security and foreign policy*
12 *objectives.*

13 “(b)(1) *No agreement for cooperation providing for*
14 *the export of any nuclear material, equipment, or devices*
15 *for civil uses may be entered into with any foreign country,*
16 *group of countries, or international organization, and no*
17 *amendment to or renewal of any such agreement may be*
18 *agreed to, unless—*

19 “(A) *the provisions of the agreement concerning*
20 *the reprocessing of special nuclear material supplied by*
21 *the United States will apply equally to all special nuclear*
22 *material produced through the use of any nuclear reactor*
23 *transferred under such agreement; and*

24 “(B) *the recipient country, group of countries, or*

1 *international organization, has agreed to permit the*
2 *International Atomic Energy Agency to report to the*
3 *United States, upon a request by the United States, on*
4 *the status of all inventories of plutonium, uranium 233,*
5 *and highly enriched uranium possessed by that country,*
6 *group of countries, or international organization and*
7 *subject to International Atomic Energy Agency safe-*
8 *guards.*

9 “(2) *The Secretary of State shall undertake consulta-*
10 *tions with all parties to agreements for cooperation existing*
11 *on the date of enactment of this section in order to seek*
12 *inclusion in such agreements of the provisions described*
13 *in paragraphs (1)(A) and (1)(B) of this subsection.*

14 “(3)(A) *No license may be issued for the export of*
15 *any nuclear material, equipment, or devices pursuant to an*
16 *agreement for cooperation unless the recipient country, group*
17 *of countries, or international organization, has agreed that*
18 *the material, equipment, and devices subject to that agree-*
19 *ment will not be used for any nuclear explosive device,*
20 *regardless of how the device itself is intended to be used.*

21 “(B) *Subparagraph (A) of this paragraph shall take*
22 *effect at the end of the one year period beginning on the*
23 *date of enactment of this section.*

24 “(4) *In any case in which a party to any agreement*
25 *for cooperation seeks to reprocess special nuclear material*

1 *produced through the use of any nuclear material, equipment,*
2 *or devices supplied by the United States, the Secretary of*
3 *State may only determine that safeguards can be applied*
4 *effectively to such reprocessing if he finds that the reliable*
5 *detection of any diversion and the timely warning to the*
6 *United States of such diversion will occur well in advance*
7 *of the time at which that party could transform strategic*
8 *quantities of diverted nuclear material into explosive nuclear*
9 *devices.”.*

Union Calendar No. 754

94TH CONGRESS
2^D Session

H. R. 15377

[Report No. 94-1469]

A BILL

To amend the Export Administration Act of
1969.

By Mr. MORGAN, Mr. ZABLOCKI, Mr. FASCELL,
Mr. NIX, Mr. FRASER, Mr. ROSENTHAL, Mr.
HAMILTON, Mr. YATRON, Mr. BINGHAM, Mr.
RYAN, Mrs. COLLINS of Illinois, Mr. SOLARZ,
Mrs. MEYNER, Mr. BROOMFIELD, Mr. BURKE
of Florida, Mr. WHALEN, Mr. BIESTER, Mr.
WINN, Mr. GILMAN, and Mr. GUYER

SEPTEMBER 1, 1976

Referred to the Committee on International Relations

SEPTEMBER 2, 1976

Reported with an amendment, committed to the Com-
mittee of the Whole House on the State of the
Union, and ordered to be printed